



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Elite Healthcare North Dallas

Respondent Name

Service Lloyds Insurance Company

MFDR Tracking Number

M4-15-1891-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

February 23, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "...in regards to date of service 8/18/14, please see the attached DWC-73 dated 8/5/14 which states the expiration of 8/19/14, therefore, especially since the patient had surgery on 8/8/14, we updated the DWC-73 on 8/18/14 to reflect current status."

Amount in Dispute: \$15.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "CorVel Healthcare Corporation (CorVel) will maintain the requestor, Elite Healthcare North Dallas is not entitled to reimbursement for DWC-73 Work Status Report forms billed on ... 8/18/14 using CPT code 99080 (-73) based on limitations and requirements set forth under §129.5. Work Status Reports.

Elite Healthcare North Dallas alleges entitlement to reimbursement for work status forms (DWC-73) based on payment for various other date(s) of service unrelated to the dispute in question.

Pursuant to division rule §129.5 a doctor shall file a work status report when there has been a substantial change in activity restrictions that prevents the employee from working under the previous restrictions or which allows the employee to work in an expanded and more strenuous capacity than the prior restrictions permitted; when there is a change in work status from one of the three (3) choices listed in subsection (a)(4) of this section to another of the choices listed in that subsection; and when work status refers to whether the injured employee's (employee) medical condition: (A) allows the employee to return to work without restrictions (which is not equivalent to maximum medical improvement); (B) allows the employee to a return to work with restrictions; or (C) prevents the employee from returning to work.

...The DWC-73 Work Status Report filed and billed on 08/18/14 by Elite Healthcare North Dallas fails to document substantial changes in activity restrictions that prevented the employee from working under the previous restrictions filed on 08/05/14 or which allowed the employee to work in an expanded and more strenuous capacity than the prior restrictions permitted. In fact, the employee had arthroscopic surgery ten days prior on 08/08/14 so it seems unreasonable to expect a substantial change in the employee's work status from the prior restrictions that soon from surgery and prior to release from the surgeon's medical care.

§129.5. Work Status Reports

(d) The doctor shall file the Work Status Report:

- (1) after the initial examination of the employee, regardless of the employee's work status;
- (2) when the employee experiences a change in work status or a substantial change in activity restrictions; and

(3) on the schedule requested by the insurance carrier (carrier), its agent, or the employer requesting the report through its carrier, which shall not to exceed one report every two weeks and which shall be based upon the doctor's scheduled appointments with the employee.

(i) Notwithstanding any other provision of this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the carrier, its agent, or the employer through its carrier asks for an extra copy. The amount of reimbursement shall be \$15. A doctor shall not bill in excess of \$15 and shall not bill or be entitled to reimbursement for a Work Status Report which is not reimbursable under this section. Doctors are not required to submit a copy of the report being billed for with the bill if the report was previously provided.

... Given no violation of the Workers' Compensation Act or division rules, CorVel respectfully requests the division render a decision indicating the requestor is not entitled to reimbursement for the charges in dispute based on failure to meet the requirements set forth under §129.5 and failure to provide evidence to meet its burden to prove payment is warranted in accordance with division rules."

Response Submitted by: CorVel

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|------------------|--------------------|-------------------|------------|
| August 18, 2014 | Work Status Report | \$15.00 | \$0.00 |

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §129.5 sets out the procedures for providing, billing, and reimbursing Work Status Reports.
- The services in dispute were reduced/denied by the respondent with the following reason codes:
 - P13 – Payment reduced/denied based on state WC regs/policies
 - RV7 – Denied- not a requested or authorized report
 - Note: Per T.A.C. 129.5 The Work Status Report shall not be billed more often than once every 2 weeks unless there is a change in work status, activity restrictions, or requested by the carrier. No change in Status/Restrictions as compared to the prior report.
 - 136 – Not a requested/authorized report

Issues

- Was the Work Status Report in dispute filed in accordance with 28 Texas Administrative Code §129.5?
- Is the requestor entitled to reimbursement?

Findings

- The dispute involves a Work Status Report for date of service August 18, 2014, billed as follows: 99080-73.
28 Texas Administrative Code §129.5 (i) defines this code as follows: "Doctors billing for Work Status Reports as permitted by this section shall do so as follows: (1) CPT code '99080' with modifier '73' shall be used when the doctor is billing for a report required under subsections **(d)(1), (d)(2), and (f)** of this section" [emphasis added].
28 Texas Administrative Code §129.5 (d) states, "The doctor shall file the Work Status Report: (1) **after the initial examination** of the employee, regardless of the employee's work status; (2) when the employee experiences a **change in work status** or a **substantial change in activity restrictions**" [emphasis added]. Review of the submitted documentation does not find that this report was provided in conjunction with the initial examination by this doctor.
A "change in work status" is defined in 28 Texas Administrative Code §129.5 (a) as follows: "(3) 'change in work status' means a change in the employee's work **status from one of the three choices listed in subsection (a)(4) of this section to another of the choices in that subsection**; and (4) the term 'work

status' refers to whether the injured employee's (employee) medical condition: (1) allows the employee to **return to work without restrictions** (which is not equivalent to maximum medical improvement); (2) allows the employee to a **return to work with restrictions**; or (3) **prevents the employee from returning to work**" [emphasis added]. Review of the submitted documentation does not find that there was a change in work status from one of the three choices to another of the choices.

A "substantial change in activity restrictions is defined in 28 Texas Administrative Code §129.5 (a) as follows: "(2) 'substantial change in activity restrictions' means **a change in activity restrictions caused by a change in the employee's medical condition which either prevents the employee from working under the previous restrictions or which allows the employee to work in an expanded and more strenuous capacity than the prior restrictions** permitted (approaching the employee's normal job)" [emphasis added]. Review of the submitted documentation finds that both the previous Work Status Report and the disputed Work Status Report stated that the injured employee was prevented from returning to work. Therefore, this section does not apply, as he was not working under previous restrictions.

28 Texas Administrative Code §129.5 (f) states, "In addition to the requirements under subsection (d), the treating doctor shall file the Work Status Report with the carrier, employer, and employee **within seven days of the day of receipt of: (1) functional job descriptions from the employer** listing available modified duty positions that the employer is able to offer the employee as provided by §129.6(a) of this title (relating to Bona Fide Offers of Employment); or (2) **a required medical examination doctor's Work Status Report** that indicates that the employee can return to work with or without restrictions." Review of the submitted documentation does not find that the disputed Work Status Report was filed after receipt of either a functional job description from the employer or a required medical examination doctor's Work Status Report.

Therefore, the Division finds that the requestor did not support that the Work Status Report in dispute filed in accordance with 28 Texas Administrative Code §129.5.

- 2. 28 Texas Administrative Code §129.5 (i) states, in relevant part, "Notwithstanding any other provision of this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section." Because the Work Status Report as billed was not required under the defined section, no reimbursement is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Laurie Garnes
Medical Fee Dispute Resolution Officer

April 28, 2015
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012**.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.