



# 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](http://www.tdi.texas.gov)

### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

**Requestor Name**

Susan Van De Water, MD

**Respondent Name**

Texas Mutual Insurance Company

**MFDR Tracking Number**

M4-15-2300-01

**Carrier's Austin Representative Box**

Box Number 54

**MFDR Date Received**

March 24, 2015

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "We submitted a request for reconsideration to Texas Mutual on 1-28-2014, this request was in response to a \$350.00 reeducation of the \$1115.00 for the DDE performed on 09-08-2014. Unfortunately our request was denied and we are seeking the balance owed to us.

On January 27, 2015 I spoke to Cory regarding this bill was over billed by \$300.00 if there was anything we can do to receive payment. He stated that he will make sure bill was paid because he gave me the ok to amend after the fact he knew it was late to amend. I received eob and bill was denied. First proof of confirmation has the original bill shown on there.

The denial reason(s) per EOB are: Workers Compensation fee schedule adjustment. Designated Doctor Exams are billed according to DWC rule 134.204 and in accordance with labor code 408.004, 408.0041, and 408.151. "

**Amount in Dispute:** \$350.00

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The following is the carrier's statement with respect to this dispute of 9/8/2014.

1. **SUSAN VANDEWATER, MD** provided services to the claimant on the date above.
2. **SUSAN VANDEWATER, MD** performed a Designated Doctor MMI/IR exam for the claimant on 9/8/14. The health care provider billed 99456-W5-WP for the MMI/IR. Texas Mutual staff denied the MMI/IR portion of the exam requesting a valid code &/or modifier be billed. According to the documentation (DWC-69 and Designated Doctor report) provided by the health care provider the claimant has not reached MMI (see DWC 60 packet) thus the provider billed using an incorrect 'WP' modifier. Per Rule 134.204 (i) and (j) for Designated Doctor exam when MMI has not been reached modifier 'NM' is to be billed (i.e. 99456-W5-NM). The health care provider submitted a corrected claim on 1/28/15; making this a new bill, which by the then the 95 time limit for filing had expired...
3. Texas Mutual on 1/28/15...received a corrected bill from **SUSAN VANDEWATER, MD**. Rule 133.20(b) states, 'Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95<sup>th</sup> day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall included a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied.

The rationale given by the requestor for the late bill is not consistent with the Rule above.

No payment is due.”

**Response Submitted by:** Texas Mutual Insurance Company

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 8, 2014	Designated Doctor Examination (MMI/IR/EOI/RTW) & Work Status Report	\$350.00	\$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**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
3. 28 Texas Administrative Code §133.250 sets out the procedures to request a reconsideration for payment of medical bills.
4. 28 Texas Administrative Code §102.4 sets out the rules for non-Commission communications.
5. Texas Labor Code §408.027 sets out the rules for timely submission of claims by health care providers.
6. Texas Labor Code §408.0272 provides for certain exceptions to untimely submission of a medical bill.
7. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - CAC-P12 – Workers’ Compensation Jurisdictional Fee Schedule Adjustment.
  - CAC-4 – The procedure code is inconsistent with the modifier used or a required modifier is missing.
  - 732 – Accurate coding is essential for reimbursement. Modifier billed incorrectly or missing. Services are not reimbursable as billed.
  - 892 – Denied in accordance with DWC Rules and/or Medical Fee Guideline including current CPT Code descriptions/instructions.
  - CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - 790 – This charge was reimbursed in accordance to the Texas Medical Fee Guideline.
  - 891 – No additional payment after reconsideration.
  - CAC-18 – Exact duplicate claim/service.
  - 878 – Appeal (request for reconsideration) previously processed. Refer to Rule 133.250(H)
  - CAC-29 – The time limit for filing has expired.
  - 224 – Duplicate charge.
  - 731 – Per 133.20(B) provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date of service.

#### **Issues**

1. What is the timely filing deadline applicable to the medical bills for the services in dispute?
2. Did the requestor forfeit the right to reimbursement for the services in dispute?

#### **Findings**

1. 28 Texas Administrative Code §133.20(b) requires that, except as provided in Texas Labor Code §408.0272, “a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.” No documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not later than 95 days after the date the disputed services were provided.
2. Texas Labor Code §408.027(a) states, in pertinent part, that “Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider’s right to reimbursement for that claim for payment.” 28 Texas Administrative Code §102.4(h) states that “Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service

regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.”

28 Texas Administrative Code §133.250 (d) states, “A written request for reconsideration shall: (1) reference the original bill and **include the same billing codes**, date(s) of service, and dollar amounts as the original bill” [emphasis added].

Review of the submitted information finds no documentation to support that a medical bill for the services in question was submitted within 95 days from the date the services were provided. Therefore, pursuant to Texas Labor Code §408.027(a), the requestor has forfeited the right to reimbursement due to untimely submission of the medical bill for the disputed services.

**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**

	<u>Laurie Garnes</u>	<u>April 28, 2015</u>
Signature	Medical Fee Dispute Resolution Officer	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.**