



**TEXAS DEPARTMENT OF INSURANCE**

**Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)**

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**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

**GENERAL INFORMATION**

**Requestor Name**

EAST TEXAS ANESTHESIOLOGY ASSOCIATION

**Respondent Name**

TEXAS MUTUAL INSURANCE CO

**MFDR Tracking Number**

M4-15-4251-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

AUGUST 28, 2015

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "This claim was denied for timely filing. We initially filed this claim to BCBS of Texas as indicated on the face sheet from the facility. On 09/16/14, BCBS paid on this claim. On 01/07/14, BCBS reversed their decision to pay on this claim and requested a refund for non covered services. We billed the patient on 01/12/15. On 02/09/15, we received notice from the patient to bill Texas Mutual Workers' Compensation. We submitted a claim to you at this time."

**Amount in Dispute:** \$815.51

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "EAST TEXAS ANESTHESIOLOGY ASSOCIATES states it was notified by the claimant on 2/9/15 that Texas Mutual was the correct carrier...Texas Mutual has no record of receiving a copy of the original bill submitted to BCBS."

**Response Submitted by:** Texas Mutual Insurance Co.

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 3, 2014	CPT Code 00670-QK-P3	\$752.63	\$0.00
	CPT Code 36620	\$62.88	\$0.00
TOTAL		\$815.51	\$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. Texas Labor Code §408.027, effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
2. Texas Labor Code §408.0272, effective September 1, 2007, provides for exceptions for timely submission of a

claim by a health care provider.

3. 28 Texas Administrative Code §133.307, sets out the procedure and requirements for medical fee dispute resolution.
4. 28 Texas Administrative Code §102.4(h), effective May 1, 2005, sets out rules to determine when written documentation was sent.
5. The services in dispute were reduced / denied by the respondent with the following reason codes:
  - CAC-29-The time limit for filing has expired.
  - 731-Per 133.20 provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the service, for services on or after 9/1/05.
  - CAC-W3, 350-In accordance with TDI-DWC rule 134.804, this bill has been identified as a request for reconsideration or appeal.
  - CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - 929-Not submitted timely per rule 133.20(B). Not later than 95<sup>th</sup> day after the date HCP is notified or erroneous submission of the medical bill..
  - 724-No additional payment after a reconsideration of services.
  - CAC-P12-Workers compensation jurisdictional fee schedule adjustment.
  - CAC-16-Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.
  - 225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
  - 714-Accurate coding is essential for reimbursement, CPT/HCPCS billed incorrectly. Corrections must be submitted w/ 95 days from DOS.

### **Issues**

1. Was the disputed bill submitted in accordance with Texas Labor Code §408.027(a)?
2. Did the requestor support position that the disputed bills met exception per Texas Labor Code §408.0272(b)(1)?

### **Findings**

1. According to the explanation of benefits, the respondent denied reimbursement for the disputed services based upon reason code "CAC-29."

Texas Labor Code §408.027(a) states, "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. 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."

The disputed date of service is September 3, 2014. The requestor did not submit any documentation to support that the disputed bill was submitted to the respondent within the 95 day deadline set by Texas Labor Code §408.027(a). The requestor contends that they meet the exception set by Texas Labor Code §408.0272(b)(1).

2. Texas Labor Code §408.0272(b)(1) states, "Notwithstanding Section 408.027, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.027(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if: (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with: (A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured; (B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or (C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title."

The requestor contends that they meet the exception set by Texas Labor Code §408.0272(b)(1) because they erroneously were informed and billed BCBS of Texas. In support of their position, the requestor submitted a copy of the Electronic Remittance report from Blue Cross and Blue Shield of Texas which indicates that the requestor was paid \$3,056.92 for the disputed services on September 16, 2014.

The requestor states, "On 01/07/14, BCBS reversed their decision to pay on this claim and requested a refund for non covered services. We billed the patient on 01/12/15. On 02/09/15, we received notice from the patient to bill Texas Mutual Workers' Compensation. We submitted a claim to you at this time."

The Division finds that the requestor did bill BCBS of Texas for the disputed services within the 95 day deadline established in Texas Labor Code §408.027(a). The Division also finds that both parties to the dispute agree that on February 9, 2015, the requestor obtained the correct insurance carrier information.

28 Texas Administrative Code §102.4(h), states "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." The requestor noted that on February 9, May 5, May 12 and June 10, 2015 the requestor billed or called the respondent regarding the claim. A review of the submitted documentation does not contain any evidence such as a fax, personal delivery, electronic transmission, or certified green cards to support the bill was sent to the respondent on these dates.

Texas Labor Code §408.0272(c) states, "Notwithstanding Subsection (b), a health care provider who erroneously submits a claim for payment to an entity described by Subdivision (1) of that subsection forfeits the provider's right to reimbursement for that claim if the provider fails to submit the claim to the correct workers' compensation insurance carrier within 95 days after the date the provider is notified of the provider's erroneous submission of the claim." The requestor did submit a fax confirmation report dated July 17, 2015 supporting position that the disputed bill was sent to the respondent; however, this date is past 95 day deadline set in Texas Labor Code §408.0272(c). As a result, no reimbursement is recommended for the disputed services.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that 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**

_____	_____	11/13/2015
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.**