



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 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

UNIVERSAL DME LLC

Respondent Name

ARCH INSURANCE CO

MFDR Tracking Number

M4-16-0143-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

September 17, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "...we submitted our claims for payment to Gallagher Bassett in the amount of \$553.00... we received a denial from Gallagher Bassett stating they are "not correct payer"...We should be paid for the services rendered because we have submitted the appropriate paperwork needed, showing that Gallagher Bassett is indeed the correct payer for this claim."

Amount in Dispute: \$553.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Carrier asserts that the Provider has not properly submitted its bill in this case and is not entitled to reimbursement."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services based upon assertions made on the DWC Form-060, Amount In Dispute, Amount Due. Row 1: July 14, 2015 through July 20, 2015, E0217 RR, \$553.00, \$17.32

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable 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 §133.240 sets out the requirements for medical payments and denial by insurance carriers.
3. 28 Texas Administrative Code §134.203 sets out the fee guideline for durable medical equipment.
4. Texas Labor Code §408.0284 sets out the requirements for the informal DME networks authorized under SB1322 effective September 1, 2013.
5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - Service to be reviewed for payment by DME Informal or voluntary network, Coventry DMEplus as defined in Texas Labor Code 408.0284. Contact DMEplus at [dmebilling@cvty.co](mailto:dmebilling@cvty.co) or (877) 398-9938 with inquiries (XX90)
  - Claim not covered by this payer/contractor. You must send the claim to the correct payer/contractor
  - Request for reconsideration
  - Original payment decision is being maintained. It was determined that this claim was processed properly
6. 28 Texas Administrative Code §133.307(d)(2)(F) states that only those denial reasons presented to the requestor prior to the date of the request will be considered. Any new denial reasons or defenses raised shall not be considered in the review.

### **Issues**

1. Is DMEplus an informal network as alleged by the respondent?
2. Are the respondent's denials supported?
3. Is reimbursement due?

### **Findings**

Documentation found supports that the following occurred during the medical billing process and before this medical fee dispute was filed:

- On or about July 20, 2015, Universal DME submitted a medical bill for the service in dispute to Gallagher Bassett.
- On or about August 3, 2015, Gallagher Bassett issued an explanation of benefits to Universal DME stating "Service to be reviewed for payment by DME Informal or voluntary network, Coventry DMEplus as defined in Texas Labor Code 408.0284. Contact DMEplus at [dmebilling@cvtry.com](mailto:dmebilling@cvtry.com) or (877) 398-9938 with inquiries (XX90)."
- On or about August 13, 2015, Universal DME sent a letter of appeal to Gallagher Bassett via fax.
- On or about September 4, 2015, Gallagher Bassett responded to Universal DME with "Original payment decision is being maintained. It was determined that this claim was processed properly."

In the following paragraphs, the division will examine whether the workers' compensation carriers' denial is supported and whether payment is due.

1. The services in dispute were denied, in part, due to "Service to be reviewed for payment by DME Informal or voluntary network, Coventry DMEplus as defined in Texas Labor Code 408.0284." Texas Labor Code §408.0284 states that the term "Informal Network" means "a network that is established under a contract between an insurance carrier or an insurance carrier's authorized agent and a health care provider for provisions of durable medical equipment or home health care services." That is in order to meet the definition of an informal or voluntary network, and entity is required to have a contract with the workers' compensation insurance carrier and a corresponding contract with the health care provider. Consequently, the respondent in this case must demonstrate that such contracts exist. Review of the available evidence finds that:
  - the respondent failed to support that a contract exists between ARCH INSURANCE CO or its authorized agent and DMEplus; and
  - the respondent failed to support that DMEplus is contracted with the health care provider Universal DME.

As an alternative, the division looks to publicly-available information in order to determine whether DMEplus may be an informal or voluntary network. According to Texas Labor Code §408.0282, all informal and voluntary networks must register on the division's public website. Review of the division's

webpage titled "Informal and Voluntary Networks" finds that DMEplus is NOT registered as an informal or voluntary network. Furthermore, a registration under the name "Coventry Health Care Workers Compensation, Inc," finds that no carrier relationships were reported under that registration as required by Texas Labor Code §408.0282(a).

The division concludes that no documentation was provided to sufficiently support that DMEplus is an informal network pursuant to Texas Labor Code §408.0284. For that reason, the denial reason "Service to be reviewed for payment by DME Informal or voluntary network, Coventry DMEplus as defined in Texas Labor Code 408.0284" is not supported.

2. The respondent's denials during the medical billing process, and its position that "Provider has not properly submitted its bill" were both predicted on the assertion that DMEplus was an informal or voluntary network. The division concluded above that the respondent failed to prove that DMEplus is an informal or voluntary network pursuant to Texas Labor Code 408.0284. Neither the EOB denial reasons, nor the respondent's position at MFDR are therefore supported. Absent any denial, rejection, or other insurance carrier defenses raised that conforms with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, including 28 Texas Administrative Code §133.240, the division finds that the service in dispute is eligible for payment.

The division notes that review of the available explanation of benefits issued by Gallagher Basset finds that "ARCH CONSTRUCTIONS PROGRAMS" and ARCH INSURANCE COMPANY are denoted in the "Insurer Name" field of the explanation of benefits.

3. 28 Texas Administrative Code §134.203(d) sets out the fee guideline for durable medical equipment. The payment is established by taking the amount allowable under Medicare's durable medical equipment (DMEPOS) fee schedule found at [www.cgsmedicare.com](http://www.cgsmedicare.com) and adjusting it by 125%. Review of the Form DWC-060 provided finds that the E0217 RR is the only code listed under "Treatment or Service in Dispute." Additionally, review of the medical bill provided demonstrates that 7 **days** of E0217 RR were provided on from date of service July 14, 2015, through July 20, 2015.

The Medicare allowable amount for most durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) is established by CMS Manual System, Pub. 100-04, Medicare Claims Processing Manual, Chapter 20. Medicare classifies most DMEPOS into one of the six categories. The service in dispute E0217 is categorized as DMEPOS payment policies as (IN) or Inexpensive DME, and the modifier RR indicates that the code is a monthly rental. The documentation found supports that E0217 RR was provided to the injured employee for a period of 7 **days**. The monthly DMEPOS rental fee for E0217 for Texas is \$61.35. This amount divided by 31 days is \$1.98 per day which is then multiplied by the 7 documented days for the rental resulting in a total DMEPOS allowable of \$13.85.

$3^{\text{rd}}$  Quarter 2015 DMEPOS Fee for 7 days of E0217 RR x 1.25 = Payment

or

$\$13.85 \times 1.25 = \$17.32$

The total allowable amount is \$17.32. This amount is recommended for reimbursement.

### **Conclusion**

For the reasons stated above, the division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$17.32.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS Texas Mutual Insurance Company to remit the amount of \$17.32 plus applicable accrued interest per 28 Texas Administrative Code §134.130 to the requestor, due within 30 days of receipt of this Order.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Manager

December 9, 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, 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 MFDR 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.**