



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

BAPTIST BEAUMONT HOSPITAL

Respondent Name

INDEMNITY INSURANCE COMPANY OF NORTH AMERICA

MFDR Tracking Number

M4-16-0869-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

December 1, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Our position is that the attached UB04 is payable in accordance with the Contested Case Hearing Decision & Order, which is binding per the Texas Labor Code."

Amount in Dispute: \$135,361.51

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Carrier requests that any decision made by the Medical Fee Dispute Resolution department of the Division of Workers' Compensation consider only those diagnosis that were determined to be compensable in reviewing the lump sum bundled request for reimbursement by the medical provider."

Response Submitted by: Smith & Carr, P.C.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Dispute Amount, Amount Due. Row 1: December 2 to December 5, 2014, Inpatient Hospital Services, \$135,361.51, \$35,450.67

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 §134.404 sets out the hospital fee guideline for inpatient services.
3. 28 Texas Administrative Code §133.2 defines terms related to medical billing and processing.
4. 28 Texas Administrative Code §133.240 sets out procedures for medical bill payments and denials.
5. 28 Texas Administrative Code §133.500 establishes standards and formats for electronic medical bill processing.
6. 28 Texas Administrative Code §133.501 sets out requirements for electronic medical bill processing.
7. Texas Labor Code §408.027 sets out provisions regarding payment of health care providers.

8. No explanations of benefits (EOB) regarding the disputed dates of services were submitted by the parties for review. Pursuant to Rule §133.307(f)(1), the division requested the respondent's attorney on December 28, 2015, to provide additional information in order to review the medical fee issues. The division requested paper copies of each EOB relating to the disputed services issued by the carrier to the health care provider as required by Rule §133.240. The respondent replied by letter, January 8, 2016, stating in part, "Not all bills related to the dates of service in dispute have been reviewed due to the extent of injury dispute." The reply included a copy of an EOB regarding unrelated dates of service; however, the respondent did not submit any EOBs related to the disputed services. As of the time of this review, the insurance carrier has not provided copies of any of the requested EOBs. Consequently, the findings and order in this decision are based on information available at the time of review.
9. Rule §133.307(d)(2)(F) requires that the insurance carrier's response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review. As will be discussed further below, the division finds below that the respondent has waived any such defenses. Any new denial reasons or defenses presented in the response shall not be considered in this review.

Issues

1. Has the requestor waived the right to request medical fee dispute resolution?
2. Did the insurance carrier issue explanations of benefits (EOBs) or take final action or as required by division rules?
3. Has the respondent waived the right to raise new denial reasons or defenses?
4. What is the recommended payment amount for the services in dispute?
5. Is the requestor entitled to additional payment?

Findings

1. On February 4, 2016, the requestor submitted an "updated" Table of Disputed Services and form DWC060, with the intention of correcting or amending the request for medical fee dispute resolution to include additional disputed services from December 1, 2014.

Rule §133.307(c)(1) requires that a requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to Rule §133.307(g).

Rule §133.307(c)(1)(A) requires that a request that does not involve issues identified in subparagraph (B) shall be filed no later than one year after the date(s) of service in dispute.

The division notes that while a related liability dispute was filed and decided with notice to the parties on November 21, 2014, the request to amend the requestor's form DWC060 was received on January 8, 2016 — later than 60 days after the date the requestor received the final decision in the liability dispute, and more than one year after the disputed date of service. As the request was not timely filed, the form DWC060 may not be amended to include the additional services. The requestor has waived the right to medical fee dispute resolution for disputed service date December 1, 2014, and these services are not eligible for review.

However, the initial MFDR request for service dates from December 2 to December 5, 2014 was received by the division on December 1, 2015. The initial request was timely and met the requirements of Rule §133.307(c). Accordingly, the request for review of those services is eligible for review.

2. No explanations of benefits (EOB) regarding the disputed dates of services were submitted by the parties for review.

Rule §133.307(d)(2)(B) requires that upon receipt of the request for medical fee dispute resolution, the respondent shall provide any missing information not provided by the requestor and known to the respondent, including:

a paper copy of all initial and appeal EOBs related to the dispute, as originally submitted to the health care provider . . . related to the health care in dispute not submitted by the requestor or a statement certifying that the respondent did not receive the health care provider's disputed billing prior to the dispute request.

Review of the insurance carrier response found no copies of any EOBs as required by Rule §133.307(d)(2)(B).

Rule §133.307(f) provides that the division may request additional information from either party to review the medical fee issues in dispute. Pursuant to Rule §133.307(f)(1), the division requested the respondent's attorney on December 28, 2015, to provide paper copies of each EOB relating to the disputed services issued by the carrier to the health care provider, as required by Rule §133.240.

The respondent replied by letter, January 8, 2016, stating in part, "Not all bills related to the dates of service in dispute have been reviewed due to the extent of injury dispute." The reply included a copy of an EOB regarding unrelated dates of service; however, the respondent did not submit any EOBs related to the disputed services. As of the time of this review, the insurance carrier has not provided copies of any of the requested EOBs. Consequently, the findings and order in this decision are based on the information available at the time of review.

Texas Labor Code Section 408.027(b), requires that:

The insurance carrier must pay, reduce, deny, or determine to audit the health care provider's claim not later than the 45th day after the date of receipt by the carrier of the provider's claim.

Corresponding Rule §133.240(a) requires that:

An insurance carrier shall take final action after conducting bill review on a complete medical bill, or determine to audit the medical bill in accordance with §133.230 of this chapter (relating to Insurance Carrier Audit of a Medical Bill), not later than the 45th day after the date the insurance carrier received a complete medical bill. An insurance carrier's deadline to make or deny payment on a bill is not extended as a result of a pending request for additional documentation.

Final action on a medical bill is defined in 28 Texas Administrative Code §133.2(6) as:

- (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement . . . and/or
- (B) denying a charge on the medical bill.

28 Texas Administrative Code §133.240 requires the insurance carrier to send an explanation of benefits to the health care provider when the insurance carrier makes or denies payment on a medical bill.

Rules §§ 133.240 (e) and (f) set out required elements an EOB must contain, including, per §§ 133.240(f)(17)(G) and (H), adjustment reason code(s) conforming to the standards described in Rules §133.500 and §133.501 if the total amount paid does not equal the total amount charged; with explanation of the reason(s) for reduction or denial for any code used to adjust the payment.

Based on the submitted documentation, the division finds that the insurance carrier failed to issue any EOBs regarding the disputed services. The insurance carrier did not deny the charges on the medical bill nor did it issue any payment. The insurance carrier thus failed to take final action in accordance with the requirements of Rule §133.240(a) as defined in Rule §133.2(6).

3. All workers' compensation insurance carriers are expected to fulfill their duty to take final action as required by law and the division's administrative rules. The insurance carrier failed to do so in this case.

Rule §133.307(d)(2)(F) requires that:

The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review.

The insurance carrier's failure to issue explanations of benefits to the health care provider constitutes grounds for the division to find a waiver of defenses at Medical Fee Dispute Resolution. Upon review, the division finds the carrier has waived such new denial reasons and defenses. Any new denial reasons or defenses presented in the response shall not be considered in this review.

The division notes that the response states, "The entire medical bill has been reviewed by a board certified orthopedic physician." The division notes also the disputed services were preauthorized. Despite pre-authorizing the services, the insurance carrier requested physician review after the filing of the medical fee dispute request.

The peer review is dated December 15, 2015; it was not communicated to the requestor prior to the dispute. The division finds this is a new denial reason or defense. As stated above, the respondent has waived the right to raise such new defenses and they will not be considered in this review.

4. This dispute regards inpatient hospital facility services with payment subject to 28 Texas Administrative Code §134.404(f), requiring the maximum allowable reimbursement (MAR) to be the Medicare facility specific amount (including outlier payments) applying Medicare Inpatient Prospective Payment System (IPPS) formulas and factors, as published annually in the Federal Register, with modifications set forth in the rules. Medicare IPPS formulas and factors are available from the Centers for Medicare and Medicaid Services at <http://www.cms.gov>.

Rule §134.404(f)(1)(A) requires that, for these services, the Medicare facility specific amount, including any outlier payment, be multiplied by 143%.

The division calculates the Medicare facility specific amount using Medicare’s *Inpatient PPS PC Pricer* as a tool to efficiently identify and apply IPPS formulas and factors. This software is freely available from www.cms.gov.

Review of the submitted medical bill and supporting documentation finds the assigned DRG code to be 460. The service location is Beaumont, Texas. Based on DRG code, service location, and bill-specific information, the Medicare facility specific amount is \$24,790.68. This amount multiplied by 143% results in a MAR of \$35,450.67.

5. The total recommended payment for the services in dispute is \$35,450.67. The insurance carrier has paid \$0.00. The amount remaining due to the requestor is \$35,450.67. This amount is recommended.

Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$35,450.67.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$35,450.67, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	_____	_____
Signature	Grayson Richardson Medical Fee Dispute Resolution Officer	April 20, 2018 Date

_____	_____	_____
Signature	Martha Luévano Director of Medical Fee Dispute Resolution	April 20, 2018 Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form DWCO45M) in accordance with the form’s instructions. 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 on the form, or to the field office handling the claim.

A party seeking review of this decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. The request must include a copy of this *Medical Fee Dispute 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.