



**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**

Houston Orthropaedic Surgical

**Respondent Name**

Travelers Indemnity Co

**MFDR Tracking Number**

M4-16-1788-01

**Carrier's Austin Representative**

Box Number 05

**MFDR Date Received**

February 26, 2016

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "The Hospital's billing department was aware how critical properly including and billing for the implants was when seeking payment from the workers' compensation carrier, and did not send the bill for the above dates of service until all invoices were obtained and ready to be sent in as well... Therefore, it is our position that the facts and circumstances surrounding this claim meet an exception of the timely filing deadline, and the Hospital should be properly reimbursed for providing the medically necessary, authorized procedures."

**Amount in Dispute:** \$65,981.94

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "In their Request for Medical Fee Dispute Resolution, the Provider submitted six invoices, dated 02/11/2015, 04-13-2014, 07-30-2014, 10-27-2014, 11-26-2014, and 03-27-2015. Five of the six invoices are dated before the admission, so the Provider clearly was not waiting on these invoices. The sole invoice dated after the admission was dated 03-27-2015. Consequently, the Provider's allegation that they were waiting on implant invoices is not supported by the evidence contained on the invoices themselves. Further, the UB-04 is dated 05-14-2015, almost a month before the submission deadline, yet the Provider offers no explanation of the delay in creating the bill after receipt of the final invoice in March. ...as the Provider failed to timely submit the billing at issue, the Provider is not entitled to reimbursement."

**Response Submitted by:** Travelers

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 26 - 27, 2015	Inpatient Hospital Services	\$65,981.94	\$0.00

**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 §133.20 sets out medical bill submission procedures for health care providers.
3. 28 Texas Administrative Code §102.4 establishes rules for non-Commission communications.
4. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
5. Texas Labor Code §408.0272 provides for certain exceptions to untimely submission of a medical claim.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 29 – The time limit for filing has expired

## **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. The insurance carrier denied the disputed services with claim adjustment reason codes: 29 – “The time limit for filing has expired.” 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.” Texas Labor Code §408.0272(b) provides that:

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; or
- (2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.

The requestor states, “While the Texas Labor Code does require providers to bill workers’ compensation carriers within a certain amount of time, exceptions are in Section 408.0272 of the Texas Labor Code. More specifically, there is an exception when a catastrophic event which prevents the provider from going about its ordinary course of business occurs. ...Had the Hospital billed without all of the implant invoices, the bill would have been incomplete. Therefore, it our position that the facts and circumstances surrounding this claim meet an exception to the timely filing deadline...”

Review of the Texas Department of Insurance definitions found at, <http://www.tdi.texas.gov/hmo/mcqa/glossary.html> finds, “*Catastrophic Event - An event, including acts of God, civil or military authority, acts of public enemy, war, accidents, fires, explosions, earthquake, windstorm, flood, or organized labor stoppages, that cannot reasonably be controlled or avoided and that causes an interruption in the claims submission or processing activities of an entity for more than two consecutive business days.*” Based on the above the Division finds insufficient evidence to support that the exception described in Texas Labor Code §408.0272(b)(2), (catastrophic event) apply to the services in this dispute. For that reason, the health care provider 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 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:

