



**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**

Tri-State Physical Therapy

**Respondent Name**

Trumbull Insurance Co

**MFDR Tracking Number**

M4-16-1790-01

**Carrier's Austin Representative**

Box Number 47

**MFDR Date Received**

February 26, 2016

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "When we started treatment for this patient, we did not know that this was a Texas Worker's Compensation claim."

**Amount in Dispute:** \$3,198.00

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Our investigation found: Dates of Service 09/14/15 – 10/19/15 – 10/15/16-11/10/15 – Original billing returned with letter requesting modifiers in order to process billing per Rule 133.200 & 134.202. 01/29/16 – Corrected billing received which exceeded the time limit allowed per Rule 133.20."

**Response Submitted by:** The Hartford, 300 S. State St., One Park Place, Syracuse, NY 13202

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 14 through October 19, 2015	Physical Therapy Services	\$3,198.00	\$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
  - 937 – Service(s) are denied based on HB7 Provider timely filing requirement. A provider must submit a medical bill to the insurance carrier on or before 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. The insurance carrier denied the disputed services with claim adjustment reason codes: 29 – “The time limit for filing has expired” and 937 – “Service(s) are denied based on HB7 Provider timely filing requirement. A provider must submit a medical bill to the insurance carrier on or before the 95<sup>th</sup> day after the date of service.” 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.

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 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:

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.

Review of the submitted information finds the following:

- The Carrier notified the health care provider on October 15, 2015 of reason the claim was being returned and how to correct
- Corrected bills for dates of service September 14, 2015, September 15, 2015, September 17, 2015, September 21, 2015, September 22, 2015, September 24, 2015, September 28, 2015, September 29, 2015, October 1, 2015, October 5, 2015, October 6, 2015, October 8, 2015, October 14, 2015,

October 13, 2015, October 15, 2015 and October 19, 2015 with date January 20, 2016 in box 31 of CMS 1500.

- Carrier acknowledged receipt of corrected bills on January 29, 2016

The Division finds insufficient evidence to support the date of the submission of the corrected claims, only the receipt date of the carrier or January 29, 2016 which is outside the 95 day filing deadline. Consequently, the requestor has forfeited the right to reimbursement due to untimely submission of the medical bill, pursuant to Texas Labor Code §408.027(a).

**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**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
April 12, 2016  
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 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.**