



**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**

Cy-Fair Chiropractic Association

**Respondent Name**

TPCIGA for Reliance National

**MFDR Tracking Number**

M4-16-2160-01

**Carrier's Austin Representative**

Box Number 50

**MFDR Date Received**

March 28, 2016

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** No response submitted.

**Amount in Dispute:** \$880.00

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The carrier asserts that four of the dates of service 2/4/15, 2/18/15, 3/11/15 and 3/26/15 the one year time limit to file for Medical Fee Dispute Resolution has expired. For the remaining two dates of 4/11/15 and 5/12/15 the carrier maintains the denial based on the peer review."

**Response Submitted by:** Broadspire, P.O. Box 14351, Lexington, KY 40512-4351

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 4, 2015	99212 -25, 98941	\$150.00	\$0.00
February 18, 2015	99212 -25, 98941	\$150.00	
March 11, 2015	99212 -25, 98941	\$130.00	
March 26, 2015	99212 -25, 98941	\$150.00	
April 11, 2015	99212 -25, 98941	\$150.00	
May 12, 2015	99212 -25, 98941	\$150.00	

**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:
  - D10 – The time limit for filing has expired
  - D51 – Unnecessary treatment based on peer review

### 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?
3. Did the medical fee dispute referenced above contain information/documentation that indicates that there are **unresolved** issues of medical necessity?
4. What is the dispute process for resolving medical necessity denials?
5. What is the dispute sequence?
6. What are the filing requirements after the resolution of a medical necessity denial?
7. Are the disputed services eligible for review by Medical Fee Dispute Resolution? Did the medical fee dispute referenced above contain information/documentation that indicates that there are **unresolved** issues of medical necessity?
8. Are the disputed services eligible for review by Medical Fee Dispute Resolution?

### Findings

1. For dates of service May 12, 2015 for Codes 99212 -25, and 98941. The insurance carrier denied the disputed services with claim adjustment reason codes: D10 – “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.

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 no documentation to support that a medical bill was submitted within 95 days from the date the services were provided. 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) for service in dispute for date of service May 12, 2015.

3. The medical fee dispute for date April 11, 2015 for codes 99212 -25 and 98941 contains information/documentation that indicates that there are **unresolved** issues of medical necessity. Review of the EOBs presented by the both the requestor and respondent indicate denial reason code(s) “D1 – Unnecessary treatment based on peer review.”
4. **Resolution of a Medical Necessity Dispute.** The Division hereby notifies the requestor the appropriate process for resolution of an unresolved issue of medical necessity requires filing for an independent review to be conducted by an IRO (independent review organization) appropriately licensed by the Texas Department of Insurance, pursuant to 28 Texas Administrative Code §133.308. Information applicable to HEALTH CARE PROVIDERS on how to file for an IRO may be found at [http://www.tdi.texas.gov/hmo/iro\\_requests.html](http://www.tdi.texas.gov/hmo/iro_requests.html) under **Health Care Providers or their authorized representatives.**
5. **Notice of Dispute Sequence.** 28 Texas Administrative Code §133.305(b) requires that “If a dispute regarding...medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding...medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and §408.021.
6. The medical fee dispute may be submitted for review as a new dispute that is subject to the requirements of 28 Texas Administrative Code §133.307. 28 Texas Administrative Code §133.307 (c)(1)(B) provides that a request for medical fee dispute resolution may be filed not later than 60 days after a requestor has received the final decision, inclusive of all appeals.
7. 28 Texas Administrative Code §133.307(f) (3) states that a dismissal is not a final decision by the division. Cy-Fair Chiropractic Association has the right to submit a new medical fee dispute after the medical necessity issue is resolved. Cy-Fair Chiropractic Association is responsible for filing for medical fee dispute not later than 60 days after the date the requestor receives the final Division decision. The 60-day filing requirement described in 28 Texas Administrative Code §133.307(c)(1)(B)(i) replaces the one-year filing deadline in those cases where a final decision regarding medical necessity is made. The division finds that due to the unresolved medical necessity issues, the medical fee dispute request (for date of service April 11, 2015) is not eligible for review until a final decision has been issued in accordance with 28 Texas Administrative Code §133.308
8. 28 Texas Administrative Code §133.307(c)(1) states:
  - Timeliness. 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 subsection (g) of this section.
  - (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.

The date of the services in dispute is February 4, 2015, February 18, 2015, March 11, 2015 and March 26, 2015. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on March 28, 2016. This date is later than one year after the date(s) of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307(c)(1)(B). The Division concludes that the requestor has failed to timely file this dispute with the Division’s MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution.

**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 , 2016 Date
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**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.**