



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

Jeff King, D.C.

Respondent Name

State Office of Risk Management

MFDR Tracking Number

M4-16-2360-01

Carrier's Austin Representative

Box Number 45

MFDR Date Received

April 11, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "DESIGNATED DOCTOR EXAMINATION NO PAYMENT RECEIVED TO DATE"

Amount in Dispute: \$1315.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "It is clear by the evidence submitted that Dr. Jeff King is the rendering provider, however is not the billing provider. Review of bills submitted reveals Genesis Medical Management is the billing provider whereas the information obtained in Box 25, 33 and 33 (a)(b) on the CMS 1500 does not reflect the billing provider's required information pursuant to this rule..."

GMM has not met the requirements of Section 409.009, because the evidence did not establish that GMM has provided compensation, directly or indirectly, to the injured worker in this case. Accordingly, GMM does not have standing to assert subclaimant status and/or pursue compensability of the claimed injury...

Being that the Office utilizes the Texas State Comptroller to issue payments to our vendors there is a requirement for all vendors paid with State funds to have a Texas payee identification number. Pursuant to Rule 133.3, the Office made numerous telephonic and written attempts to the billing provider who failed to neither communicate nor submit the requested information to the Office as requested...

Upon receipt of the billing provider's applications for Payee ID, the Office received a bill on 1/18/2016 whereas an audit completed issuing denial for 29-time limit for filing has expired on 2/12/2016 which is 25 days from the date of receipt. A request for reconsideration was received on 3/1/2016 where an audit found that there was no supportive evidence to substantiate that the initial audit was received within 95 days from date of service and the denial was maintained for 29-time limit for filing has expired."

Response Submitted by: State Office of Risk Management

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 5, 2015	Designated Doctor Examination	\$1315.00	\$1300.00

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 §133.2 defines terms related to medical benefits.
3. 28 Texas Administrative Code §133.10 sets out the requirements for submission of a complete medical bill.
4. 28 Texas Administrative Code §133.20 sets out the procedures for submission of a medical bill.
5. 28 Texas Administrative Code §133.200 sets out the procedures for insurance carriers regarding receipt of a medical bill.
6. 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services.
7. Texas Labor Code §408.0041 sets out the requirements regarding Designated Doctor examinations.
8. Texas Labor Code §408.0272 sets out the exceptions to the 95-day filing requirement for medical bills.
9. Texas Labor Code §409.009 defines the role of a subclaimant.
10. 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 95th day after the date of service.

Issues

1. Is the requestor eligible to request medical fee dispute resolution?
2. Was a complete medical bill submitted in accordance with 28 Texas Administrative Code §§133.10, 133.20 and 133.200?
3. What is the maximum allowable reimbursement (MAR) for the disputed services?
4. Is the requestor entitled to reimbursement for the disputed services?

Findings

1. The insurance carrier asserts that the requestor is not eligible to request medical fee dispute resolution because the requestor does not have standing as a subclaimant under Texas Labor Code §409.009. Review of the submitted documents finds that the requestor did not file the Medical Fee Dispute Resolution Request (DWC060) as a subclaimant. The DWC060 identifies the requestor as the health care provider. 28 Texas Administrative Code §133.2(2) defines an agent as:

A person whom a system participant utilizes or contracts with for the purpose of providing claims service or fulfilling medical bill processing obligations under Labor Code, Title 5 and rules. The system participant who utilizes or contracts with the agent may also be responsible for the administrative violations of that agent. This definition does not apply to "agent" as used in the term "pharmacy processing agent."

The insurance carrier argued that "There is no evidence of there being a contractual relationship between Dr. King and Mr. Calderon giving Mr. Calderon the authority to file for medical fee dispute resolution on Dr. King's behalf." 28 Texas Administrative Code §133.307 provides the requirements for documentation for a medical fee dispute. The division finds that evidence of a contractual relationship is not required for this dispute. Therefore, the division finds that the requestor is eligible to request medical fee dispute resolution for the dispute in question.

2. 28 Texas Administrative Code §133.20(b) states that, except as provided in 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. Review of the submitted documentation finds evidence that supports submission of a medical bill for the services in question on or about June 25, 2015.

The insurance carrier rejected and returned the medical bill on June 30, 2015, stating, "The business name and/or address provided in (Box 33-CMS 1500, Box 2-UB04, Box 4-DWC66, Box 48-J400) is not set-up in the

Comptroller's vendors' system." 28 Texas Administrative Code §133.200(a)(1) states that "Insurance carriers shall not return medical bills that are complete, unless the bill is a duplicate bill." 28 Texas Administrative Code §133.2(4) defines a complete medical bill, in relevant part, as a "medical bill that contains all required fields as set forth in the billing instructions for the appropriate form specified in §133.10 of this chapter..."

In reference to 28 Texas Administrative Code §133.10, the division finds that the medical bill submitted on or about June 25, 2015 was complete. The insurance carrier's rejection of the medical bill was therefore not supported.

The division concludes that the requestor filed a complete medical bill on or about June 30, 2015 and finds that he disputed services were filed timely in accordance with 28 Texas Administrative Code §133.20(b). The disputed services are therefore eligible for payment pursuant to the applicable medical fee guideline.

3. Per 28 Texas Administrative Code §134.204(j)(3), "The following applies for billing and reimbursement of an MMI evaluation... (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350." The submitted documentation supports that the requestor performed an evaluation of Maximum Medical Improvement. Therefore, the correct MAR for this examination is \$350.00.

Per 28 Texas Administrative Code §134.204(j)(4),

The following applies for billing and reimbursement of an IR evaluation ...

(C) For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas.

(i) Musculoskeletal body areas are defined as follows:

- (I) spine and pelvis;
- (II) upper extremities and hands; and,
- (III) lower extremities (including feet).

(ii) The MAR for musculoskeletal body areas shall be as follows...

(II) If full physical evaluation, with range of motion, is performed:

(-a-) \$300 for the first musculoskeletal body area.

(-b-) \$150 for each additional musculoskeletal body area.

The submitted documentation indicates that the requestor provided an impairment rating and performed a full physical evaluation with range of motion for the lumbar spine and right hand. Therefore, the correct MAR for this examination is \$450.00.

Per 28 Texas Administrative Code §134.204(k),

The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier 'RE.' In either instance of whether MMI/IR is performed or not, the reimbursement shall be \$500 in accordance with subsection (i) of this section and shall include Division-required reports...

The submitted documentation indicates that the Designated Doctor performed an examination to determine the ability of the injured employee to return to work. Therefore, the correct MAR for this examination is \$500.00.

Per 28 Texas Administrative Code §134.204(l), "The following shall apply to Work Status Reports. When billing for a Work Status Report **that is not conducted as a part of the examinations outlined in subsections (i) and (j) of this section** [emphasis added], refer to §129.5 of this title (relating to Work Status Reports)". Therefore, the filing of the DWC-073 is not separately payable when provided in conjunction with a Designated Doctor Examination performed according to 28 Texas Administrative Code §134.204(i).

4. Texas Labor Code §408.0041(h) states that the insurance carrier shall pay for "an examination required under Subsection (a), (f), or (f-2), unless otherwise prohibited by this subtitle or by an order or rule of the commissioner..." The division finds that the services in question are subject to reimbursement as noted above. The total MAR for the disputed services is \$1300.00. The insurance carrier paid \$0.00. A reimbursement of \$1300.00 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 \$1300.00.

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 in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1300.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Laurie Garnes Medical Fee Dispute Resolution Officer	June 22, 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, 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.