



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 HOSPITAL FOR SPECIALIZED SURGERY

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

MFDR Tracking Number

M4-16-3864-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

August 29, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The services provided . . . were considered to be a medical emergency."

Amount in Dispute: \$82,404.70

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "It is documented . . . that the claimant wanted ' . . . to be repaired two days ago, but . . . he was inappropriate for lengthy surgery at the time. He was postponed [sic] until he could return back to baseline physiologic state of health.' . . . waiting until the claimant could return back to baseline physiologic state of health does [not] seem to reflect a baseline emergency condition . . . "

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Dispute Amount, Amount Due. Row 1: March 23, 2016, Outpatient Hospital Services, \$82,404.70, \$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 §133.2 defines words and terms related to medical billing.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §134.403 sets out the acute care hospital fee guideline for outpatient services.
4. 28 Texas Administrative Code §134.600 sets out guidelines for prospective review of health care.
5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
- 197 - PRECERTIFICATION/AUTHORIZATION/NOTIFICATION ABSENT
- 930 - PRE-AUTHORIZATION REQUIRED, REIMBURSEMENT DENIED
- W3 - IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
- 193 - ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.
- 350 - IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
- 891 - NO ADDITIONAL PAYMENT AFTER RECONSIDERATION

Issue

1. Was preauthorization required?

Findings

1. The insurance carrier denied disputed services with claim adjustment reason codes:

- 197 – PRECERTIFICATION/AUTHORIZATION/NOTIFICATION ABSENT
- 930 – PRE-AUTHORIZATION REQUIRED, REIMBURSEMENT DENIED

The hospital argues authorization was not required because an emergency existed at the time of treatment. 28 Texas Administrative Code §134.600(c)(1) states that the insurance carrier is liable for all reasonable and necessary medical costs relating to the health care listed in subsection (p) or (q) only when the following situations occur:

- (A) an emergency, as defined in Chapter 133 of this title (relating to General Medical Provisions);
- (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care;
- (C) concurrent utilization review of any health care listed in subsection (q) of this section that was approved prior to providing the health care; or
- (D) when ordered by the commissioner;

Rule §134.600(p)(2) requires preauthorization for non-emergency outpatient surgical services.

Rule §134.600(p)(q) is not applicable, as it requires concurrent utilization review only for an extension of previously approved services; however, the disputed services had not been previously reviewed or authorized.

28 Texas Administrative Code §133.2(5)(A), defines a medical emergency as:

the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in (i) placing the patient's health or bodily functions in serious jeopardy, or (ii) serious dysfunction of any body organ or part.

Regardless whether an emergency existed during previous dates of service, review of the submitted information could find no documentation to support an emergency on the day the disputed services were rendered.

Review of the submitted operative reports finds the injured employee's medical condition was not the result of a sudden onset on the date of the surgery. Rather, the surgeon notes on a prior visit that the employee had "taken a downward medical turn," after being "loaded with considerable amount of contrast" during an MRI that had "changed his renal function." The surgeon further documents that upon consultation with the injured employee and two other doctors, "All four parties were in agreement that proceeding with the repairs . . . was inappropriate action at this time because of the required duration under anesthesia for that surgery" As a result, it was decided to close the wound without repair of the injured structures, stating: "he can simply remain in a sutured wound dressing and had his medical health improvement and optimized to see if he can be brought to a status that is acceptable for the longer surgery of reconstruction."

For the date of the disputed surgical services, the operative report states the injured employee:

wished to be repaired two days ago, but . . . he was inappropriate for lengthy surgery at that time.

He was postponed until he could return back to his baseline physiologic state of health.

He was interviewed by his internist, checked out thoroughly and judged to be in his optimized state of health for his age and thus able to undergo the more stressful surgery as of today;

The medical necessity of the services is not disputed. Even so, the medical necessity of the services does not circumvent the requirement for preauthorization in the absence of an emergency.

As the surgery was provided without meeting the requirements defining a medical emergency in Rule §133.2(5)(A), preauthorization was required, pursuant to Rule §134.600(p)(2). As preauthorization was neither sought nor obtained, the insurance carrier's denial reasons are supported. Reimbursement cannot be recommended.

Conclusion

In resolving disputes regarding the amount of payment due for health care determined to be medically necessary and appropriate for treatment of a compensable injury, the role of the division is to adjudicate the payment, given the relevant statutory provisions and division rules.

The division would like to emphasize that the findings and decision in this dispute are based on the available evidence presented by the requestor and respondent at the time of review. Even though not all the evidence was discussed, it was considered.

For the reasons stated above, the division finds that the requestor has failed to establish that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the division hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

	Grayson Richardson	February 2, 2018
Signature	Medical Fee Dispute Resolution Officer	Date

	Martha Luévano	February 2, 2018
Signature	Director of Medical Fee Dispute Resolution	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, 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. **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.