



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

ROBERT MENZIES MD PLLC

Respondent Name

INSURANCE COMPANY OF THE STATE OF PA

MFDR Tracking Number

M4-18-1193-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

December 18, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "I am asking that your reconsider these dates from 6/20/2016-7/3/2017 based on we were not aware initially that this patient had an open work comp claim and based on the patient and his wife's confusion of whether they had coverage through medicare vs. work comp themselves."

Amount in Dispute: \$5,257.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "...the Carrier maintains its denial for the dates of service in question. The dates of service in dispute range from June 20, 2016 through July 3, 2017... Dr. Menzies was not the claimant's approved treating doctor until September 19, 2017... Prior to that date, the treating doctor on file is Dr. George Wharton. Therefore, we maintain our denial."

Response Submitted by: AIG

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 20, 2016 through July 3, 2017	99214 x 10	\$5,257.00	\$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

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §126.9, sets out the procedures for *Choice of Treating Doctor and Liability for Payment*.
- Section 408.022 sets out the out guidelines for Section of Doctor.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
Explanation of Benefit
 - 1 – Not the treating doctor

Issues

1. Did the requestor waive the right to medical fee dispute resolution for dates of service June 20, 2016 through November 21, 2016?
2. Did the requestor render services in accordance with Section 408.022 for dates of service December 19, 2016 through July 3, 2017?
3. Is the requestor entitled to reimbursement for dates of service December 19, 2016 through July 3, 2017?

Findings

1. The requestor seeks reimbursement for medical services rendered on June 20, 2016 through November 21, 2016. 28 TAC §133.307(c) (1) states in pertinent part, "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 are June 20, 2016 through November 21, 2016. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on December 18, 2017. This date is later than one year after the dates 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 dates of the service June 20, 2016 through November 21, 2016 with the Division's MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for these dates.

2. The requestor seeks reimbursement for office visits (CPT 99214) rendered on December 19, 2016 through July 3, 2017. The insurance carrier denied the disputed services with denial reduction code "1 – Not the treating doctor."

Section 408.022, titled *Selection of Doctor* states in pertinent part, "(e) For purposes of this section, the following is not a selection of an alternate doctor: (1) a referral made by the doctor chosen by the employee if the referral is medically reasonable and necessary; (2) the receipt of services ancillary to surgery; (3) the obtaining of a second or subsequent opinion only on the appropriateness of the diagnosis or treatment; (4) the selection of a doctor because the original doctor: (A) dies; (B) retires; or (C) becomes unavailable or unable to provide medical care to the employee; or (5) a change of doctors required because of a change of residence by the employee."

28 TAC §180.22, titled *Health Care Provider Roles and Responsibilities* states in pertinent part, "(c) The treating doctor is the doctor primarily responsible for the efficient management of health care and for coordinating the health care for an injured employee's compensable injury. The treating doctor shall: 1) except in the case of an emergency, approve or recommend all health care reasonably required that is to be rendered to the injured employee including, but not limited to, treatment or evaluation provided through referrals to consulting and referral doctors or other health care providers, as defined in this section."

28 TAC §126.9, titled *Choice of Treating Doctor and Liability for Payment* states in pertinent part, "(d) If an injured employee wants to change treating doctors, other than exceptions as described in Texas Civil Statutes, Article 8308-4.64, or removal of the doctor from the list, the employee shall submit to the field office handling the claim, reasons why the current treating doctor is unacceptable. Unless medical necessity exists for an immediate change, the submission shall be in writing on a form prescribed by the commission. If the need for an immediate change exists, then the injured employee may notify the field office by telephone. Injured employees who change doctors because the doctor is removed from the list or for one of the exceptions listed in Texas Civil Statutes, Article 8308-4.64, shall immediately notify the commission of the change in the form and format prescribed by the commission (e) Reasons for approving a change in treating doctor include, but are not limited to: (2) the selected doctor chooses not to be responsible for coordinating injured employee's health care as described in §133.3 of this title (relating to Responsibilities of Treating Doctor). (h) The commission may, after holding a benefit contested case hearing as provided by Chapter 142 of this title (relating to Benefit Contested Case Hearing), relieve the carrier of liability for health care furnished by a doctor or health care provider at the doctor's direction if: (2) the employee failed to comply with commission rules regarding a change in treating doctor. (i) If the carrier is relieved of liability for the costs of health care, the employee may be billed for medical treatments or services provided the health care provider billing the employee had no knowledge of the violation by the employee at the time the medical treatments or services were rendered. (j) The commission shall relieve the carrier of liability by an order which identifies the health care provider(s) and expressly states the time period for which the carrier is relieved of liability and whether the health care provider may submit the bill to the employee for those treatments or services. Provided, however, that a doctor removed from the list may not seek reimbursement under workers' compensation for treatments or services rendered."

Review of the submitted documentation finds that the treating doctor on record, at the time the disputed services were rendered was George W. Wharton. The request to change the treating doctor from George W. Wharton to Robert David Menzies was approved by the DWC on September 18, 2017. The DWC finds that the DWC's approval was granted after the disputed services were rendered. As a result, the DWC finds that reimbursement cannot be recommended for the services rendered on December 19, 2016 through July 3, 2017.

- 3. The DWC finds that the requestor is not entitled to reimbursement CPT Code 99214 rendered on December 19, 2016 through July 3, 2017. As a result, \$0.00 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that 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

September 27, 2019
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 TAC §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 DWC within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the DWC 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 DWC. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 TAC §141.1(d).

Si prefriere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.