



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

US PAIN & SPINE HOSPITAL

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

MFDR Tracking Number

M4-18-1454-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

January 17, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The bill was not submitted on time because worker's compensation insurance was NOT provided timely by the patient or the employer at the time of service."

Amount in Dispute: \$81,425.38

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "One year from disputed date 11/18/2016 is 11/18/2017. The TDI/DWC date stamp lists the received date as 1/17/2018 on the requestor's DWC-60 packet, a date greater than one year from 11/18/2016. The requestor has waived its right to DWC MDR."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Dispute Amount	Amount Due
November 18, 2016	Outpatient Hospital Services	\$81,425.38	\$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 §133.20 sets out medical bill submission procedures for health care providers.
- Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
- Texas Labor Code §408.0272 provides certain exceptions for untimely submission of a medical bill.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 29 – THE TIME LIMIT FOR FILING HAS EXPIRED
 - 731 – PER 133.20(B) PROVIDER SHALL NOT SUBMIT A MEDICAL BILL LATER THAN THE 95TH DAY AFTER THE DATE THE SERVICE.
 - 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.
- 724 – NO ADDITIONAL PAYMENT AFTER A RECONSIDERATION OF SERVICES. FOR INFORMATION CALL 1-800-937-6824

Issues

1. Did the requestor waive the right to medical fee dispute resolution for failure to timely file the MFDR request?
2. Did the requestor forfeit the right to reimbursement for failure to timely submit the bill to the insurance carrier?

Findings

1. The respondent asserts that the requestor has waived the right to MFDR for failure to timely file the request with the division within one year from the date of service, stating: “The TDI/DWC date stamp lists the received date as 1/17/2018 on the requestor’s DWC-60 packet, a date greater than one year from 11/18/2016. The requestor has waived its right to DWC MDR.”

28 Texas Administrative Code §133.307(c)(1) requires that a requestor shall timely file the request with the division’s MFDR Section or waive the right to MFDR. Rule §133.307(c)(1)(A) further requires that a request for MFDR, that does not meet certain exceptions listed in Rule §133.307(c)(1)(B), shall be filed no later than one year after the date(s) of service in dispute.

The date of the services in dispute is November 18, 2016. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on January 17, 2018. This date is later than one year after the date(s) of service in dispute.

However, the requestor is located in Harris County. This was a county impacted by Hurricane Harvey and subject to the Governor’s disaster proclamation of August 23, 2017. Pursuant to the Commissioner of Worker’s Compensation Bulletin #B-0020-17, issued August 29, 2017, for system participants in affected counties, all deadlines with respect to claim notification and filing, medical billing, medical and income benefit payments, electronic data reporting, and medical and income benefit disputes are tolled (paused) through the duration of the Governor’s disaster proclamation. Pursuant to Commissioner’s Bulletin # B-0042-17, the tolling period was lifted on January 10, 2018, with the effect that the ‘clock’ for making a required filing resumed ‘ticking’ on the effective date the tolling period ended.

Review of the submitted documentation finds that only 279 days had transpired between the date of service and the Governor’s proclamation. An additional 7 days elapsed from the expiration of the tolling period until the filing of the dispute request with MFDR—for a total of 286 days. This is less than the one year filing limit set forth in Rule §133.307(c)(1)(B); consequently, the division concludes the requestor has not waived the right to request medical fee dispute resolution. Accordingly, the disputed services will be reviewed per applicable division rules and fee guidelines.

2. The insurance carrier denied disputed services with claim adjustment reason codes:
 - 29 – THE TIME LIMIT FOR FILING HAS EXPIRED.
 - 731 – PER 133.20(B) PROVIDER SHALL NOT SUBMIT A MEDICAL BILL LATER THAN THE 95TH DAY AFTER THE DATE THE SERVICE.

28 Texas Administrative Code §133.20(b) requires 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.”

Texas Labor Code §408.0272(b) provides certain exceptions to the 95-day time limit for bill submission:

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.

The requestor did not provide documentation to support timely submission of the claims to any insurance carrier or health maintenance organization. Nor did the failure to file the claim result from a catastrophic event—as the 95th day following the date of service was Tuesday, February 21, 2017. This date was before Hurricane Harvey and prior to the date of the Governor’s disaster proclamation; therefore, the timely filing period was not suspended.

The requestor states, “I have attached documentation showing statements were mailed timely to the patient’s home address.” Nevertheless, submitting the bill to the patient is not an exception listed in Labor Code §408.0272(b).

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. The health care provider was thus required to submit the medical bill to the insurance carrier not later than the 95th day following the date the services were provided.

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.”

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).

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 on the information submitted by the parties, in accordance with the provisions of Texas Labor Code §413.031, the division determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

	Grayson Richardson	February 23, 2018
Signature	Medical Fee Dispute Resolution Officer	Date

	Martha Luévano	February 23, 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.