



# 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**

NEXTCARE URGENT CARE OF TEXAS

**Respondent Name**

TX PUBLIC SCHOOL WC PROJECT

**MFDR Tracking Number**

M4-18-4942-01

**Carrier's Austin Representative**

Box Number 01

**MFDR Date Received**

AUGUST 14, 2018

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "10/30/2017 18:30:11-Received acknowledged receipt."

**Amount in Dispute:** \$280.00

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Respondent contends that Requestor did not timely submit its complete bill for payment within 95 days after the date it provided services in this claim in accordance with Division Rule 133.20(b). Consequently, it is not entitled to reimbursement in this claim."

**Response Submitted By:** Creative Risk Funding.

#### SUMMARY OF FINDINGS

| Dates of Service | Disputed Services                       | Amount In Dispute | Amount Due |
|------------------|---|-------------------|------------|
| October 25, 2017 | CPT Code 99213<br>Office Visit          | \$265.00          | \$80.40    |
|                  | CPT Code 99080-73<br>Work Status Report | \$15.00           | \$15.00    |
| TOTAL            |   | \$280.00          | \$95.40    |

#### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted 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. Texas Labor Code §408.027, effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
3. Texas Labor Code §408.0272, effective September 1, 2007, provides for exceptions for timely submission of a claim by a health care provider.
4. 28 Texas Administrative Code §134.239, effective July 7, 2016, sets out medical fee guidelines for workers' compensation specific services.
5. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets out the reimbursement guidelines for professional services.
6. 28 Texas Administrative Code §129.5, effective July 16, 2000, sets out the procedure for reporting and billing work status reports.
7. The services in dispute were reduced / denied by the respondent with the following reason codes:
  - 29-The time limit for filing has expired.
  - 193-Original payment decision is being maintained. This claim was processed properly the first time.
  - W3
  - Original first receipt of this bill was 04-02-2018.

### **Issues**

1. Did the requestor support position that the disputed bills were submitted timely?
2. Is the requestor due reimbursement for CPT codes 99213 and 99080-73?

### **Findings**

1. This dispute involves date of service October 25, 2017. The dispute was filed to TDI-DWC MFDR on August 14, 2018. TDI-DWC addresses the issue as follows:
  - The requestor performed the service in Beeville, Texas and has a billing provider located in Dallas Texas.
  - Beeville, Texas is located in Bee County.
  - On August 23, 2017, Governor Greg Abbott issued a proclamation declaring that Hurricane Harvey poses a threat of imminent disaster along the Texas Coast and in numerous counties including Bee County. The declaration states in pertinent part: "THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby declare a state of disaster in the previously listed counties based on the existence of such treat. Pursuant to Section 418.017 of the code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster. Pursuant to Section 418.016 of the code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster."
  - Governor Abbott issued subsequent proclamations extending the state of disaster for the named counties due to the substantial destruction in South, Central and East Texas. To date, the Hurricane Harvey Disaster Proclamations cover a period from August 23, 2017 through January 10, 2018 for Bee County.
  - The Texas Department of Insurance issued Commissioner's Bulletins# B-0020-17 and B-0042-17 as a result of the Governor's Proclamation. The bulletins "required insurance carriers to continue to process and pay workers' compensation claims and tolled (paused) deadlines for specified workers' compensation procedures involving system participants who reside in the counties listed in the Governor's disaster proclamation."

- Texas Labor Code §408.027(a) states, “A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. 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.”
- In this dispute, to determine if claim for payment was sent no later than the 95<sup>th</sup> day, the deadline is computed by **counting** each day up to and including August 23, 2017, then by **NOT counting** each day from August 24, 2017, through January 9, 2018, and finally by counting of days from January 10, 2018 and on. In other words, the total days would be computed by adding only the days counted before, and the days counted after the tolled period, not to include any of the days in the tolled period.

MFDR’s obligation under the Governor’s Proclamations and the Commission’s Bulletins is to accept date of service October 25, 2017, as timely because the 95 day deadline, in this case, is tolled.

2. On the disputed date of service the requestor billed CPT code 99213 and 99080-73.

A. CPT Code 99213

28 Texas Administrative Code §134.203(a)(5) states “Medicare payment policies” when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare.”

CPT code 99213 is described as “Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: An expanded problem focused history; An expanded problem focused examination; Medical decision making of low complexity. Counseling and coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Typically, 15 minutes are spent face-to-face with the patient and/or family.”

A review of the submitted report supports billing CPT code 99213; therefore, reimbursement is recommended.

Per 28 Texas Administrative Code §134.203(c)(1)(2), “To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007.”

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

Review of Box 32 on the CMS-1500 the services were rendered in zip code 78102, which is located in Beeville, Texas; therefore, the Medicare participating amount is based on locality “Rest of Texas”.

The 2017 DWC conversion factor for this service is 57.5.

The 2017 Medicare Conversion Factor is 35.8887

Place of Service Code is listed as 20-Urgent Care Facility

The Medicare participating amount for 99213 at this location is \$50.18.

Using the above formula the division finds the MAR is \$80.40. The respondent paid \$0.00. The requestor is due the difference between MAR and amount paid of \$80.40.

**B. CPT Code 99080-73**

CPT code 99080-73 is defined as "Special reports such as insurance forms, more than the information conveyed in the usual medical communications or standard reporting form."

28 Texas Administrative Code §134.239 states, "When billing for a work status report that is not conducted as a part of the examinations outlined in §134.240 and §134.250 of this title, refer to §129.5 of this title."

28 Texas Administrative Code §129.5(i)(1) states "Notwithstanding any other provision of this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the carrier, its agent, or the employer through its carrier, asks for an extra copy. The amount of reimbursement shall be \$15. A doctor shall not bill in excess of \$15 and shall not bill or be entitled to reimbursement for a Work Status Report which is not reimbursable under this section. Doctors are not required to submit a copy of the report being billed for with the bill if the report was previously provided. Doctors billing for Work Status Reports as permitted by this section shall do so as follows: (1) CPT code "99080" with modifier "73" shall be used when the doctor is billing for a report required under subsections (d)(1), (d)(2), and (f) of this section."

28 Texas Administrative Code §129.5 (d)(1) and (2) states "The doctor shall file the Work Status Report:

- (1) after the initial examination of the employee, regardless of the employee's work status;
- (2) when the employee experiences a change in work status or a substantial change in activity restrictions."

A review of the submitted work status report finds the requestor released the employee to return to work on October 25, 2017 without any restrictions. The division finds the requestor supported billing CPT code 99080-73 in accordance with 28 Texas Administrative Code §129.5 (d)(2). As a result, reimbursement of \$15.00 is recommended.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$95.40.

***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 involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$95.40 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

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Signature \_\_\_\_\_ Medical Fee Dispute Resolution Officer \_\_\_\_\_ Date 9/14/2018

## **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 MDR 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.**