



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

Texas Health HEB

Respondent Name

Argonaut Insurance Co

MFDR Tracking Number

M4-19-0170-01

Carrier's Austin Representative

Box Number 17

MFDR Date Received

September 14, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The purpose of this letter is to inform you that payment for services provided to the above referenced patient does not comply with Chapters 134.403 and 134.404 of Texas Administrative Code."

Amount in Dispute: \$479.15

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: Submitted documentation does not include a position statement from the respondent. Accordingly, this decision is based on the information available at the time of review

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 12, 2018	Outpatient Hospital Services	\$479.15	\$356.16

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 §134.403 sets out the reimbursement guidelines for outpatient hospital services.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 370 – This hospital outpatient allowance was calculated according to the APC rate, plus a markup
 - 45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement
 - P12 – Workers' compensation jurisdictional fee schedule adjustment
 - P15 – Questions regarding PPO/network reductions contact Procura:(877) 461-3750

Issues

1. Did the insurance carrier respond to the MFDR request?
2. Is the insurance carrier's PPO reduction supported?
3. What is the applicable rule for determining reimbursement for the disputed services?
4. Is the requestor entitled to additional reimbursement?

Findings

1. The Austin carrier representative for Argonaut Insurance is Downs Stanford PC who acknowledged receipt of the copy of this medical fee dispute on September 21, 2018. 28 Texas Administrative Code §133.307 states, in relevant part:

(d) Responses. Responses to a request for MFDR shall be legible and submitted to the division and to the requestor in the form and manner prescribed by the division.

- (1) Timeliness. The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile **within 14 calendar days after the date the respondent received the copy of the requestor's dispute** [emphasis added]. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

Review of the documentation finds that no response has been received on behalf of the insurance carrier from Carrier rep to date. The division concludes that the insurance carrier failed to respond within the timeframe required by §133.307(d)(1). For that reason, the division will base its decision on the information available

2. The requestor is seeking \$479.15 for Code 49585 rendered on March 12, 2018. The insurance carrier reduced the disputed services with claim adjustment reason code 45 – “Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement” and P15 – “Questions regarding PPO/network reductions contact Procura:(877) 461-3750.”

Procura is not listed as a certified network on the Division's webpage, nor did the carrier provide convincing evidence that the injured employee is enrolled in this network, and the carrier did not provide documentation to support that the requestor is contracted with Procura.

The Division concludes that the carrier failed to support its reasons for reduction of payment. Therefore, the service in dispute will be reviewed per applicable Division fee guideline.

3. The applicable fee guideline is found in 28 Texas Administrative Code §134.403 (d) which states in pertinent part,

For coding, billing, reporting, and reimbursement of health care covered in this section, Texas workers' compensation system participants shall apply Medicare payment policies in effect on the date a service is provided

The Medicare payment policy applicable to the services in dispute is found at www.cms.gov, Claims processing Manual, Chapter 4. The application of this payment policy in conjunction with the Division fee guideline is discussed below.

4. 28 TAC §134.403, (f) states,

The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register*. The following minimal modifications shall be applied.

- (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:

(A) 200 percent; unless

(B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 130 percent.

Review of the medical bill finds separate payment for implants was not requested. Medicare's Outpatient Prospective Payment System (OPPS) assigns an Ambulatory Payment Classification (APC) and Status Indicator for billed services based on procedure codes and supporting documentation. The APC determines the payment rate. The status indicator identifies whether the service described by the HCPCS code is paid under the OPPS and if so, whether payment is made separately or packaged. The Centers for Medicare and Medicaid Services (CMS) publishes quarterly lists of APC rates and Status Indicators in the OPPS final rules, available from www.cms.gov.

The maximum allowable reimbursement is per the above is calculated as follows:

- Procedure code 49585 has status indicator J1, for procedures paid at a comprehensive rate. All covered services on the bill are packaged with the primary "J1" procedure (except those with status F, G, H, L or U; certain inpatient and preventive services; ambulance and mammography). This code is assigned APC 5341. The OPPS Addendum A rate is \$2,911.16, multiplied by 60% for an unadjusted labor amount of \$1,746.70, in turn multiplied by the facility wage index of 0.9636 for an adjusted labor amount of \$1,683.12. The non-labor portion is 40% of the APC rate, or \$1,164.46. The sum of the labor and non-labor portions is \$2,847.58. The Medicare facility specific amount of \$2,847.58 is multiplied by 200% for a MAR of \$5,695.16.

The total recommended reimbursement for the disputed services is \$5,695.16. The insurance carrier paid \$5,339.00. The amount due is \$356.16. This amount 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 \$356.16.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$356.16 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

December 12, 2018
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.