



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

EAST TEXAS MEDICAL CENTER PITTSBURG

Respondent Name

STATE OFFICE OF RISK MANAGEMENT

MFDR Tracking Number

M4-19-1675-01

Carrier's Austin Representative

Box Number 45

MFDR Date Received

November 20, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Critical Access Hospitals should be paid at 30% of billed charges resulting in a balance of \$1380.00."

Amount in Dispute: \$409.82

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "CAHs are not subject to the Hospital Outpatient Prospective Payment System; therefore, 28 Texas Administrative Code §134.403(e)(2) does not apply.... The Office reimbursed the charges in dispute at 200% of Medicare's Composite APC reimbursement for APC code 8007."

Response Submitted by: State Office of Risk Management

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Dispute Amount	Amount Due
February 22, 2018	Critical Access Hospital services	\$409.82	\$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 §134.403 sets out the hospital facility fee guideline for outpatient services.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 16 – CLAIM/SERVICE LACKS INFORMATION WHICH IS NEEDED FOR ADJUDICATION. ADDITIONAL INFORMATION IS SUPPLIED USING REMITTANCE ADVICE REMARKS CODES WHENEVER APPROPRIATE.
 - 802 – CHARGE FOR THIS PROCEDURE EXCEEDS THE OPPS SCHEDULE ALLOWANCE
 - P12 – WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
 - 6553 - CLAIM/SERVICE LACKS INFORMATION OR HAS SUBMISSION/BILLING ERROR(S) WHICH IS NEEDED FOR ADJUDICATION.

Issues

1. What is the applicable rule for determining reimbursement of Critical Access Hospital Services?
2. Is the requestor entitled to additional reimbursement?

Findings

1. This dispute regards payment for outpatient diagnostic services (MRI) provided in a Critical Access hospital.

Per Medicare payment policies, Critical Access hospitals serve rural and low-population areas. Critical Access hospitals are not reimbursed using Medicare's Outpatient Prospective Payment System (OPPS) but are instead subject to special reimbursement provisions that have not been adopted by the Texas Division of Workers' Compensation (DWC) as the basis for reimbursement under any fee guideline.

DWC's *Hospital Facility Fee Guideline*, Rule §134.403(f) determines reimbursement applying Medicare's OPPS formula and factors. This hospital's National Provider Identifier (NPI) number (field 56 on the bill) identifies the facility as a Critical Access Hospital; as a result, reimbursement cannot be determined by applying the formula in Rule §134.403(f). No information to support a contracted fee schedule or negotiated rate was found in the submitted materials. Accordingly, Rule §134.403(e)(3) requires that in the absence of an applicable fee schedule, if payment cannot be determined using the formula in Rule §134.403(f), then payment is determined according to Rule §134.1, regarding a fair and reasonable reimbursement.

This dispute regards Critical Access Hospital services with reimbursement subject to the medical reimbursement provisions of Rule §134.1. 28 Texas Administrative Code §134.1(f) requires that fair and reasonable reimbursement shall:

- (1) be consistent with the criteria of Labor Code §413.011;
- (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and
- (3) be based on nationally recognized published studies, published division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available.

The Texas Supreme Court has summarized the statutory standards and criteria applicable to "fair and reasonable" fee determinations as requiring "methodologies that determine fair and reasonable medical fees, ensure quality medical care to injured workers, and achieve effective cost control." *Texas Workers' Compensation Commission v. Patient Advocates of Texas*, 136 South Western Reporter Third 643, 656 (Texas 2004).

Additionally, the Third Court of Appeals held in *All Saints Health System v. Texas Workers' Compensation Commission*, 125 South Western Reporter Third 96, 104 (Texas Appeals – Austin 2003, petition for review denied), that "[E]ach ... reimbursement should be evaluated according to [Texas Labor Code] section 413.011(d)'s definition of 'fair and reasonable' fee guidelines as implemented by Rule 134.1 for case-by-case determinations."

Texas Labor Code §413.011(d) requires that:

Fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf.

28 Texas Administrative Code §133.307(c)(2)(O) requires the requestor to provide:

documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) . . . when the dispute involves health care for which the division has not established a maximum allowable reimbursement (MAR) or reimbursement rate, as applicable

The requestor asserts, "Critical Access Hospitals should be paid at 30% of billed charges resulting in a balance of \$1380.00." The requestor did not, however, provide any documentation to support or justify this assertion.

Furthermore, a reimbursement based on a percentage of billed charges is not, by itself, evidence of a fair and reasonable amount. This calculation method was considered and rejected by the division in the adoption preamble to the former *Acute Care Inpatient Hospital Fee Guideline (22 Texas Register 6276, July 4, 1997)*, in which they found it did not meet the statutory criteria:

A discount from billed charges was another method of reimbursement which was considered. Again, this method was found unacceptable because it leaves the ultimate reimbursement in the control of the hospital, thus defeating the statutory objective of effective cost control and the statutory standard not to pay more than for similar treatment of an injured individual of an equivalent standard of living. It also provides no incentive to contain medical costs, would be administratively burdensome for the Commission and system participants, and would require additional Commission resources.

Consequently, payment based on a percentage of the hospital's billed charges cannot be favorably considered when no other data or documentation is submitted to support that the amount sought is a fair and reasonable reimbursement for the services in dispute.

Review of the submitted information finds insufficient documentation to demonstrate or justify that the amount requested is a fair and reasonable rate for the services in dispute. The division concludes the requestor has not met the requirements of Rule §134.1 or Labor Code §413.011 and therefore has failed to meet the burden to support the request for additional payment. Accordingly, additional payment 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 emphasizes that the findings in this decision are based on the evidence presented by the requestor and respondent available 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 not established 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	December 14, 2018
Signature	Medical Fee Dispute Resolution Officer	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.

A party seeking review must submit a *Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision* (form DWCO45M) in accordance with the form's instructions. The division must receive the request within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered either to the division, using the contact information listed on the form, or to the field office handling the claim.

The party seeking review must deliver a copy of the request to all parties involved in the dispute at the same time the request is filed. Include a copy of this *Medical Fee Dispute Resolution Findings and Decision* together with any other information required by 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.