



# 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**

Renal Center of Tyler

**Respondent Name**

Texas Mutual

**MFDR Tracking Number**

M4-19-2566-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

January 11, 2019

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "...we submitted these claims within a reasonable time from the last payment by the primary payer, which was November 27, 2018."

**Amount in Dispute:** \$132,133.25

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The rationale given by the requestor for the late bills is not consistent with the Rule above."

**Response Submitted by:** Texas Mutual

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 22, 2017 January 1 – 31, 2018 February 2 – 14, 2018	Hemodialysis Services	\$132,133.25	\$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 requirements of medical bill submission.
- Texas Labor Code 408.0272 sets out the workers compensation timely billing and exceptions guidelines.
- 28 Texas Administrative Code §102.4 sets out general guidelines for non-commission communications.
- 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 95<sup>th</sup> day after the date the service

### **Issue**

1. Did the requestor waive the right to medical fee dispute resolution?
2. Is the requestor’s position statement supported?

### **Findings**

1. 28 Texas Administrative Code §133.307(c)(1) states in pertinent part,
 

Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request.

  - (A) A request for medical fee dispute resolution 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.
  - (B) A request may be filed later than one year after the date(s) of service if:
    - (i) a related compensability, extent of injury, or liability dispute under Labor Code Chapter 410 has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability;
    - (ii) a medical dispute regarding medical necessity has been filed, the medical fee dispute must be filed not later than 60 days after the date the requestor received the final decision on medical necessity, inclusive of all appeals, related to the health care in dispute and for which the insurance carrier previously denied payment based on medical necessity; or
    - (iii) the dispute relates to a refund notice issued pursuant to a division audit or review, the medical fee dispute must be filed not later than 60 days after the date of the receipt of a refund notice.

The requestor’s DWC060 contained the dates of service;

- December 22, 2017
- January 1, 2018
- January 8, 2018

The request for medical dispute resolution was received in the Medical Dispute Resolution (MDR) section on January 11, 2019. 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, subparagraph (B).

The Division concludes that the requestor has failed to timely file these dates of service in dispute with the Division’s MDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for the dates of service listed above. The remaining dates of services are discussed below.

2. The requestor is seeking \$132,133.25 for hemodialysis services. The disputes dates of service that are eligible for MFDR are from January 15, 2018 through February 9, 2018. The insurance carrier denied disputed services with claim adjustment reason code 29 – “The time limit for filing has expired.”

The requestor states, “The claims for the above-identified dates of service were denied as untimely. However, we submitted these claims within a reasonable time from the last payment by the primary payer, which was November 27, 2018.”

28 TAC §133.20 (b) states in pertinent part,

- (b) Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care

provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied.

Texas Labor Code 408.0272. (b) and (c) states in pertinent part,

(b) 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;

(2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.

(c) Notwithstanding Subsection (b), a health care provider who erroneously submits a claim for payment to an entity described by Subdivision (1) of that subsection forfeits the provider's right to reimbursement for that claim if the provider fails to submit the claim to the correct workers' compensation insurance carrier within 95 days after the date the provider is notified of the provider's erroneous submission of the claim.

Review of the submitted medical documentation found insufficient evidence to support the requestor submitted the services in dispute to any carrier other than the respondent. The requestor's position statement is not supported. No additional payment is recommended.

### **Conclusion**

The Division finds that the requestor has waived the right to medical fee dispute resolution for the services in dispute. For that reason, the merits of the issues raised by both parties to this dispute have not been addressed.

### **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

\_\_\_\_\_  
March 1, 2019  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Director of Medical Fee Dispute Resolution

\_\_\_\_\_  
March 1, 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 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.**