



**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**

METROCREST SURGERY CENTER

**Respondent Name**

FEDERAL INSURANCE CO

**MFDR Tracking Number**

M4-19-3724-01

**Carrier's Austin Representative**

Box Number 17

**MFDR Date Received**

APRIL 5, 2019

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Payment has been denied for timely filing. We have appealed showing that our claim was filed timely but the was denied as well."

**Amount in Dispute:** \$2,984.92

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Based on review of the document submitted by the requestor it appears Metrocrest Surgery Center LP contracts with an unknown EDI trading partner for, the purpose of fulfilling its medical bill processing obligations. Please note CorVel is the proprietary clearinghouse for fulfilling medical bill processing obligations for Federal Insurance Co. An acknowledgement is, transmitted to heal care providers and/or their agents within two (2) working days of receipt of an electronic submission pursuant to division rules. Without sufficient evidence to support proof of timely electronic bill submission to CorVel's clearinghouse on behalf of the insurance carrier it is assumed the electronic medical bill was only submitted to the health care provider's bill processing agent not later then the 95<sup>th</sup> day after the date on which the health care services are provided to the injured employee."

**Response Submitted by:** Corvel

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 6, 2018	Ambulatory Surgical Care Services (ASC) CPT Code 29880-LT	\$2,984.92	\$2,984.89

**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, effective May 31, 2012, 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. 28 Texas Administrative Code §102.4(h), effective May 1, 2005, sets out rules to determine when written documentation was sent.
4. 28 Texas Administrative Code §133.20, effective January 29, 2009, sets out the health care providers billing procedures.
5. 28 Texas Administrative Code §134.402, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
6. The services in dispute were reduced / denied by the respondent with the following claim adjustment reason codes:
  - 29-Time limit for filing claim/bill has expired.
  - RM2-Time limit for filing claim has expired.

## **Issues**

1. Does the documentation support requestor's position that the disputed bills were submitted timely?
2. Is the requestor due reimbursement for ASC services rendered on September 6, 2018?

## **Findings**

1. The requestor is seeking payment of \$2,984.92 for ASC services rendered on September 6, 2018.
2. According to the explanation of benefits, the respondent denied reimbursement for the disputed services based upon reason code "29- Time limit for filing claim/bill has expired."
3. To determine if the ASC services are eligible for reimbursement the division refers to the following statute:
  - 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."
  - 28 Texas Administrative Code §133.20(B) states, "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. The medical bill submitted by the health care provider to the correct workers' compensation insurance carrier is subject to the billing, review, and dispute processes established by Chapter 133, including §133.307(c)(2)(A) - (H) of this title (relating to MDR of Fee Disputes), which establishes the generally acceptable standards for documentation."
  - 28 Texas Administrative Code §102.4(h), states, "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday."

4. Both parties to this dispute submitted documentation for consideration in support of their position. The division reviewed the documentation and finds:
  - The requestor submitted a copy of a Claim History report that indicates on September 13, 2018 and “08:30:18PM...Claim received by payer.” The report indicates Payer is “Chubb Indemnity Insurance Company.” This date is within the 95 day deadline for filing a claim.
  - The requestor submitted a report from Corvel dated August 15, 2018, that indicates “Carrier/TPA Chubb & Son (WC) – Dallas, TX.”
  - The division finds the requestor supported that bill was submitted timely to the insurance carrier; therefore, the respondent’s denial of payment based upon timely filing is not supported.
5. To determine the appropriate reimbursement the division refers to the following statute:
  - 28 Texas Administrative Code §134.402(b) (6) states,

Definitions for words and terms, when used in this section, shall have the following meanings, unless clearly indicated otherwise. “Medicare payment policy’ means 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.
  - 28 Texas Administrative Code §134.402(d) states,

For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section, including the following paragraphs.
  - 28 Texas Administrative Code §134.402(f)(1)(A) states,

The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the Federal Register. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the Federal Register, or its successor. The following minimal modifications apply: (1) Reimbursement for non-device intensive procedures shall be: A) The Medicare ASC facility reimbursement amount multiplied by 235 percent.
6. CPT code 29880 is described as “Arthroscopy, knee, surgical; with meniscectomy (medial AND lateral, including any meniscal shaving) including debridement/shaving of articular cartilage (chondroplasty), same or separate compartment(s), when performed.”
7. Per ADDENDUM AA, CPT code 29880 is a non-device intensive procedure.
8. The following formula was used to calculate the MAR:

The Medicare fully implemented ASC reimbursement for code 29880 CY 2018 is \$1,279.91.

The Medicare fully implemented ASC reimbursement rate of \$1,279.91 is divided by 2 = \$639.95.

This number multiplied by the City Wage Index for Carrollton, Texas is \$639.95 X 0.9848 = \$630.22.

Add these two together = \$1,270.17.

To determine the MAR, multiply the geographically adjusted Medicare ASC reimbursement by the DWC payment adjustment factor of 235% = \$2,984.89. The respondent paid \$0.00. The requestor is due the difference between MAR and paid of \$2,984.89.

**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 \$2,984.89.

**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 \$2,984.89, 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

5/9/2019  
\_\_\_\_\_  
Date

**YOUR RIGHT TO APPEAL**

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 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.**