



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 SPINE AND JOINT HOSPITAL

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-19-4063-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

MAY 7, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The Hospital billed the Claimant's group health, but received the attached letter from BlueCross BlueShield of Oklahoma indicating that the workers' compensation Carrier should be billed. This letter was dated January 14, 2019. The Hospital's business records indicate Teas Mutual was billed on January 21, 2019, but Texas Mutual denied the bill based on timely filing...our position is that the facts and circumstances surrounding this claim meet the exception to the timely filing rule as discussed in the Texas Labor Code."

Amount in Dispute: \$425.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Texas Mutual on 1/31/2019 received the bill from TEXAS SPINE & JOINT HOSPITAL...The Provided submitted documentation from other care insurer (BCBS) dated 1/14/19, however the provider on the documentation was sent to Baylor Scott & White, not the requestor of this complaint."

Response Submitted by: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Rows include CPT codes (99203-25, 73562-LT-TC, 73562-RT-TC, 59088) and a TOTAL row.

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. 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 §102.4(h), effective May 1, 2005, sets out rules to determine when written documentation was sent.
5. 28 Texas Administrative Code §133.20, effective January 29, 2009, sets out the health care providers billing procedures.
6. The services in dispute were reduced / denied by the respondent with the following claim adjustment reason codes:
 - CAC-29-The time limit for filing has expired.
 - 731-Per 133.20(B) provider shall not submit a medical bill later than the 95th day after the date the service.
 - CAC-W3, 350-In accordance with TDI-DWC rule 134.804, this bill has been identified as a request for reconsideration or appeal.
 - CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - 891-No additional payment after reconsideration.

Issues

Does the documentation support requestor's position that the disputed bills were submitted timely?

Findings

1. The requestor is seeking payment of \$425.00 for professional services rendered on June 5, 2018.
2. According to the explanation of benefits, the respondent denied reimbursement for the disputed services based upon reason code "CAC-29-The time limit for filing has expired."
3. To determine if the disputed 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."
 - Texas Labor Code §408.0272(b)(1) states "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.”

- 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 disputed services were rendered at an urgent care clinic.
 - The respondent wrote, “the provider on the documentation was sent to Baylor Scott & White, not the requestor of this complaint TEXAS SPINE & JOINT HOSPITAL.”
 - The Sassi Law Firm, P.C. wrote, “Please be advised that our law firm represents Baylor Scott & White, d/b/a Texas Spine & Joint Hospital (the ‘Hospital’), who handles the billing for Stephanie Mowery, FNP-C, in its collection of the above referenced patient account.”
 - The requestor submitted a report from BlueCross Blue Shield of Oklahoma dated January 14, 2019 requesting a refund of payment in the amount of \$400.00. The basis of this request was that the correct insurance carrier liable for payment is Texas Mutual Insurance.
 - The requestor submitted explanation of benefits dated February 20, 2019 from Texas Mutual Insurance for the disputed services.
 - The requestor supports position that they qualify for exception outlined in Texas Labor Code §408.0272(b)(1), because once notified the correct carrier was Texas Mutual they billed them within 95 days.
 - The requestor sufficiently supported the claim was submitted to the respondent within the 95 day deadline set out in Texas Labor Code §408.0272(b) and 28 Texas Administrative Code §133.20(b).
 - The respondent’s denial of payment based upon timely filing is not supported.
5. 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).

The 2018 DWC conversion factor for this service is 58.31.

The Medicare Conversion Factor is 35.9996

Review of Box 32 on the CMS-1500 the services were rendered in Tyler, Texas; therefore, the locality will be based on the rate for "Rest of Texas".

Using the above formula, the division finds:

Code	Medicare Participating Amount	MAR	Insurance Carrier Paid	Total Amount Due
99203-25	\$75.68	\$122.58	\$0.00	\$122.58
73562-LT-TC	\$24.94	\$40.40	\$0.00	\$40.40
73562-RT-TC	\$24.94	\$40.40	\$0.00	\$40.40
59088	Not covered by Medicare as of January 1, 2007. This code is used to report urgent care services that are global to another service performed on this date; therefore, reimbursement is \$0.00			

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 \$203.38.

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 \$203.38 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

6/13/2019

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.