



# TEXAS DEPARTMENT OF INSURANCE

## Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

**Requestor Name**

TOPS SURGICAL SPECIALITY HOSPI

**Respondent Name**

INSURANCE COMPANY OF THE STATE OF PA

**MFDR Tracking Number**

M4-19-4744-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

July 2, 2019

**Response Submitted By**

No response received

#### REQUESTOR'S POSITION SUMMARY

"This procedure was performed on both the patients left and right side, and therefore the use of modifier 59 makes both of these procedures payable."

#### RESPONDENT'S POSITION SUMMARY

The insurance carrier did not submit a response for consideration in this review.

#### SUMMARY OF DISPUTE

| Dates of Service | Disputed Services            | Dispute Amount | Amount Due |
|------------------|------------------------------|----------------|------------|
| March 21, 2018   | Outpatient Hospital Services | \$10,581.59    | \$0.00     |

#### AUTHORITY

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

#### 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.
- Texas Insurance Code Chapter 1305 sets out requirements for workers' compensation health care networks.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 370 – THE HOSPITAL OUTPATIENT ALLOWANCE WAS CALCULATED ACCORDING TO THE APC RATE, PLUS A MARKUP.
  - 618 – THE VALUE OF THIS PROCEDURE IS PACKAGED INTO THE PAYMENT OF OTHER SERVICES PERFORMED ON THE SAME DATE OF SERVICE.
  - P12 – WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
  - P63 - ANY REDUCTION IS IN ACCORDANCE WITH YOUR AETNA CONTRACT. FOR QUESTIONS, PLEASE CALL 1-800-937-6824
  - 45 – CHARGE EXCEEDS FEE SCHEDULE/MAXIMUM ALLOWABLE OR CONTRACTED LEGISLATED FEE ARRANGEMENT.

#### Issues

- Did the insurance carrier respond to the request for medical fee dispute resolution (MFDR)?
- Are the disputed services subject to a contract between the parties to this dispute?
- Did the requestor waive the right to medical fee dispute resolution?

Findings

1. The Austin carrier representative for The Insurance Company of the State of PA is Flahive, Odgen & Latson, Attorneys at Law, PC, who acknowledged receipt of a copy of the MFDR request on July 9, 2019. 28 Texas Administrative Code §133.307(d)(1) provides that if the division does not receive a response within 14 calendar days of dispute notification, the division may base its decision on the available information. To date, no response has been received. Consequently, this decision is based on the information available at the time of review.

2. The insurance reduced payment for disputed services with claim adjustment codes:
- P63 - ANY REDUCTION IS IN ACCORDANCE WITH YOUR AETNA CONTRACT. FOR QUESTIONS, PLEASE CALL 1-800-937-6824
  - 45 – CHARGE EXCEEDS FEE SCHEDULE/MAXIMUM ALLOWABLE OR CONTRACTED LEGISLATED FEE ARRANGEMENT.

Based on information maintained by DWC, the insurance carrier has not previously notified DWC that the injured employee is enrolled in a certified workers’ compensation health care network (HCN) established in accordance with Insurance Code Chapter 1305. No information was submitted by either party to support that the disputed services are subject to a negotiated or contracted fee schedule. No information was found to support a negotiated agreement or contract between the parties to this dispute. The insurance carrier’s reduction reasons are not supported. Payment for the services will therefore be reviewed following DWC rules and fee guidelines.

3. 28 TAC §133.307(c)(1) requires that a requestor shall timely file the request with DWC's MFDR Section or waive the right to medical fee dispute resolution (MFDR).

28 TAC §133.307(c)(1)(A) further requires that a request for MFDR that does not meet any exceptions listed in 28 TAC §133.307(c)(1)(B) be filed no later than one year after the dates of service in dispute.

The disputed date of service is March 21, 2018.

The request was received in DWC’s MFDR Section on July 2, 2019.

This date is later than one year after the disputed date of service.

Review of the submitted information finds the circumstances do not involve any of the exceptions listed in 28 TAC §133.307(c)(1)(B). DWC concludes the requestor failed to timely file this dispute with DWC’s MFDR Section. Consequently, the requestor has waived the right to medical fee dispute resolution.

Conclusion

The requestor failed to timely submit the request for medical fee dispute resolution to DWC.

As a result, the amount ordered is \$0.00.

**ORDER**

In accordance with Texas Labor Code §413.031, based on the information submitted for review, DWC hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Grayson Richardson  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
September 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 TAC §133.307.

The appealing party must submit a *Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision* (form DWC045M). DWC must receive the request within twenty days of your receipt of this decision.

You may fax, mail or personally deliver the request to either the field office handling the claim or to DWC at the contact information on the form. You must send a copy to all other parties in the dispute at the same time you file the request. Include a **copy** of this **Medical Fee Dispute Decision** along with any other information required by 28 TAC §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.