



**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 SURGICAL CENTER

**Respondent Name**

TX PUBLIC SCHOOL WC PROJECT

**MFDR Tracking Number**

M4-19-4746-01

**Carrier's Austin Representative**

Box Number 01

**MFDR Date Received**

JULY 1, 2019

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Please find the enclosed proof of timely filing information."

**Amount in Dispute:** \$2,789.54

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "CRF and BSISD contend that Texas Surgical Center did not timely submit its complete bill for payment within 95 days after the date it provided services in this claim in accordance with Division Rule 133.20(b). Consequently, it is not entitled to reimbursement in this claim."

**Response Submitted by:** Creative Risk Funding

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 1, 2019	Ambulatory Surgical Care (ASC) Services for CPT Code 26727	\$2,789.54	\$0.00

**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. The services in dispute were reduced / denied by the respondent with the following claim adjustment reason codes:
  - 29-The time limit for filing has expired.
  - W3-Reconsideration/Appeal
  - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

### **Issues**

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

### **Findings**

1. The requestor is seeking payment of \$2,789.54 for ASC services rendered on February 1, 2019.
2. According to the explanation of benefits, the respondent denied reimbursement for the disputed services based upon reason code "29-The time limit for filing 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 date of service in dispute is February 1, 2019.
  - The Claim History report supports numerous attempts and rejections to forward the claim to an intermediary starting on February 12, 2019.

- The documentation does not contain any evidence such as a fax, personal delivery, electronic transmission, or certified green cards to support the bill was sent to the respondent within the 95 day deadline.
- The requestor did not sufficiently support that the claim was submitted to the respondent within the 95 day deadline set out in Texas Labor Code §408.027(a) and 28 Texas Administrative Code §133.20(B).
- The respondent's denial of payment based upon timely filing is supported.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

**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	07/25/2019 Date
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**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.**