



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

BAPTIST ST. ANTHONY'S HEALTH

Respondent Name

ZURICH AMERICAN INSURANCE COMPANY

MFDR Tracking Number

M4-19-5383-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

August 30, 2019

Response Submitted By

Flahive, Odgen & Latson, Attorneys at Law, PC

REQUESTOR'S POSITION SUMMARY

The requestor did not submit a position statement for consideration in this review.

RESPONDENT'S POSITION SUMMARY

"the provider's request for Medical Fee Dispute Resolution should be dismissed on the basis that the medical bill in dispute has not been submitted to the insurance carrier for an appeal when required... Moreover, the provider is not entitled to reimbursement on the basis a failure to obtain preauthorization for services that require preauthorization."

SUMMARY OF DISPUTE

Dates of Service	Disputed Services	Dispute Amount	Amount Due
February 12, 2019	Outpatient Hospital Services	\$8,110.20	\$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

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403 sets out the hospital facility fee guideline for outpatient services.
3. 28 Texas Administrative Code §134.600 sets out requirements regarding authorization of health care.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 197 – Precertification/authorization/notification absent.
 - 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
 - P12 – Workers' compensation jurisdictional fee schedule adjustment.
 - 29 – The time limit for filing has expired
 - W3 – Additional payment made on appeal/reconsideration.

Issues

1. Did the health care provider request reconsideration from the insurance carrier?
2. Did the disputed services require preauthorization?
3. Did the requestor forfeit the right to reimbursement due to untimely submission of the medical bill?

Findings

1. The respondent asserts, “the provider’s request for Medical Fee Dispute Resolution should be dismissed on the basis that the medical bill in dispute has not been submitted to the insurance carrier for an appeal ...”

The requestor submitted a copy of an initial explanations of benefits (EOB), reviewed by Zurich Insurance on June 26, 2019, and a copy of the appeal EOB from Zurich, with post date July 16, 2019, which includes claim adjustment code W3 – “In accordance with TDI-DWC Rule 134.804, this bill has been identified as a request for reconsideration or appeal.”

Despite the respondent’s assertion, the documentation supports the provider presented the medical bill to the insurance carrier for reconsideration. The dispute is therefore eligible for review and will not be dismissed.

2. The respondent asserts, “the provider is not entitled to reimbursement on the basis a failure to obtain preauthorization for services that require preauthorization.”

The insurance carrier denied disputed services with claim adjustment reason code 197 — “precertification/ authorization/notification absent.”

The respondent did not indicate which services required preauthorization or explain why.

Despite the respondent’s assertion, not all workers’ compensation services require preauthorization or concurrent review. Rather, the DWC authorization rule, 28 Texas Administrative Code §134.600(c) requires that the insurance carrier is liable for non-emergency health care listed in 28 TAC §§ 134.600 (p) and (q) only when preauthorization was approved before providing the health care.

However, review the disputed services finds that they are not among the health care services listed as requiring preauthorization or concurrent review in subsections (p) or (q).

28 TAC §134.600 (p)(2) requires preauthorization for outpatient surgical services; however, the disputed services are not surgical in nature. They involve intravenous infusion of Octagam, human immune globulin.

28 TAC §134.600 (p)(11) requires preauthorization for drugs not included in the division formulary.

The DWC formulary is defined in 28 TAC §134.500(3), and includes “All available Food and Drug Administration (FDA) approved prescription and nonprescription drugs prescribed and dispensed for outpatient use,” excluding “(A) drugs identified with a status of ‘N’ in the current edition of the Official Disability Guidelines Treatment in Workers' Comp (ODG) / Appendix A, ODG Workers' Compensation Drug Formulary, and any updates.”

Review of ODG Appendix A finds that Octagam, human immune globulin, is not identified with a status of “N.” DWC concludes that Octagam, human immune globulin, is not listed as requiring preauthorization.

No information was presented by the respondent to support the assertion that the disputed services met any of the criteria in 28 TAC §§ 134.600 (p) and (q) requiring preauthorization.

Accordingly, the division concludes this denial reason regarding preauthorization is not supported.

3. However, upon reconsideration of the medical bill, the insurance carrier denied the disputed services with claim adjustment reason code 29 – “The time limit for filing has expired.”

28 Texas Administrative Code §133.20(b) requires that “a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.”

The date of service is February 12, 2019. The initial EOB from the carrier indicates the bill was first received on June 13, 2019. This date is later than the 95th day following the date of service.

Texas Labor Code §408.0272(b)(1) provides certain exceptions to the above 95-day time limit.

The provider does not forfeit payment if the provider submits proof of first billing (within the time limit):

- (A) ... 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 ...
- (C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment...

Labor Code §408.0272(b)(2) also provides an exception if the failure results from a natural disaster or catastrophic event that substantially interfered with the normal business operations of the provider.

No documentation was found to support any of the exceptions described in Labor Code §408.0272(b). The provider was thus required to submit the bill no later than the 95th day after the date of service.

Labor Code §408.027(a) states, "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."

No documentation was found to support the medical bill was submitted within 95 days from the date of service. The insurance carrier's denial reason is supported. Consequently, the requestor has forfeited the right to reimbursement due to untimely submission of the medical bill.

Conclusion

For the reasons above, the requestor failed to establish that additional payment is due. 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 25, 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.