



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

MEMORIAL HERMANN SURGICAL HOSPITAL

Respondent Name

UNITED AIRLINES, INC.

MFDR Tracking Number

M4-20-0053-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

September 9, 2019

Response Submitted By

No response received from self-insured employer

REQUESTOR'S POSITION SUMMARY

"Please reconsider payment ... that was denied due to timely filing, and carrier previously billed Gallagher Bassett prior to billing Sedgwick, which documentation for proof of timely filing are enclosed for review."

RESPONDENT'S POSITION SUMMARY

The self-insured employer did not submit a response for consideration in this review.

SUMMARY OF DISPUTE

Dates of Service	Disputed Services	Dispute Amount	Amount Due
November 9, 2018 to November 16, 2018	Outpatient Hospital Services	\$34,529.56	\$11,047.34

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 §133.20 sets out medical bill submission procedures for health care providers.
- 28 Texas Administrative Code §133.210 sets out requirements regarding medical documentation.
- 28 Texas Administrative Code §133.240 sets out requirements regarding medical bill payments and denials.
- 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 Labor Code §408.0272 provides certain exceptions for untimely submission of a medical bill.
- Neither the requestor nor respondent presented copies of explanations of benefits (EOBs) for consideration in this review. The requestor presented convincing evidence to support they were informed by telephone the bill was denied due to untimely filing. The requestor supported requesting copies of the EOBs from the respondent, but no EOBs were provided to the requestor. To date no EOBs have been provided to DWC by the self-insured employer, or their agent, in response to the request for medical fee dispute resolution (MFDR).

Issues

- Did United Airlines, Inc. respond to the request for medical fee dispute resolution (MFDR)?
- Are the reasons for denial of payment supported?
- Is the requestor entitled to additional payment?

Findings

1. The Austin carrier representative for United Airlines, Inc. is Flahive, Odgen & Latson, Attorneys at Law, PC, who acknowledged receipt of a copy of the MFDR request on September 17, 2019. 28 Texas Administrative Code §133.307(d)(1) provides, 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 self-insured employer did not submit any documentation to support issuing a payment or denial of the disputed medical bills. Rule 28 TAC §133.240(a) requires, "An insurance carrier shall take final action after conducting bill review on a complete medical bill, or determine to audit the medical bill ... not later than the 45th day after the date the insurance carrier received a complete medical bill." Based on the information submitted for review, the self-insured employer has not met the requirements of Rule 28 TAC §133.240(a).

Rule 28 TAC §133.307(d)(2)(F) states, "The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."

While the self-insured employer did not submit a response for consideration, the requestor provided evidence the carrier informed the health care provider by telephone that the bill was denied due to untimely filing.

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." However, Texas Labor Code §408.0272(b)(1) provides certain exceptions to the 95-day time limit for bill submission. Per §408.0272(b)(1)(C), the provider does not forfeit payment if the provider submits proof of erroneously billing within the time limit "a workers' compensation insurance carrier other than the insurance carrier liable for the payment..."

The requestor submitted proof of timely filing the bill with Gallagher Bassett Services, Inc., which, based on the submitted information, was the former third-party claims administrator for the self-insured employer, United Airlines, Inc. Gallagher Bassett responded to the bill by letter dated December 7, 2018, stating: "Claim no longer svcd by GB. ... send bills to new carrier."

The requestor provided convincing evidence the medical bill (including a copy of the response from Gallagher Bassett) was timely submitted to the correct carrier (or third-party claims administrator for the self-insured employer, United Airlines, Inc.) within 95 days from their notification of the erroneous billing.

The evidence further supports, after the provider was informed by telephone of *that* bill's denial, the provider requested a copy of the EOB from the carrier — which was not received. The provider submitted a reconsideration request to the carrier, to which the provider did not receive a response. The provider then documented a further request to the carrier for EOBs, but was not provided any.

Rule 28 TAC §133.307(d)(2)(B) requires, upon receipt of the request for MFDR, the respondent shall provide any missing information not provided by the requestor and known to the respondent. The respondent shall also provide the following information and records: "a paper copy of all initial and appeal EOBs ... related to the health care in dispute not submitted by the requestor or a statement certifying that the respondent did not receive the health care provider's disputed billing prior to the dispute request"

Based on the submitted information, DWC concludes the provider timely submitted the medical bill to the correct carrier as allowed by Labor Code §408.0272. However, the self-insured employer did not properly pay or deny the bill as required by Rule 28 TAC §133.240(a); nor did they respond to the request for reconsideration.

The self-insured employer did not respond to the request for MFDR nor provide any of the documents required by Rule 28 TAC §133.307(d)(2). The respondent has thus failed to support the alleged denial due to untimely filing (of which they informed the provider by telephone but did not supply paper EOBs).

Based on the preponderance of evidence, the requestor has supported their request for reimbursement. Consequently, the disputed services will be reviewed for payment consistent with DWC rules and fee guidelines.

3. This dispute regards outpatient facility services subject to DWC's Hospital Facility Fee Guideline, 28 TAC §134.403, which requires the maximum allowable reimbursement (MAR) be the Medicare facility specific amount applying Medicare Outpatient Prospective Payment System (OPPS) formulas and factors modified by DWC rules. Rule 28 TAC §134.403(f)(1) requires the Medicare facility specific amount be multiplied by 200% for these hospital services.

Medicare assigns an Ambulatory Payment Classification (APC) to OPPS services based on billed procedure codes and supporting documentation. The APC determines the payment rate. Reimbursement for ancillary items and services is packaged with the APC payment. CMS publishes quarterly APC rate updates, available at www.cms.gov.

Reimbursement for the disputed services is calculated as follows:

- Procedure codes 23430 and 29827 have status indicator J1, for procedures paid at a comprehensive rate. All covered services on the bill are packaged with the primary "J1" APC. These codes are assigned APC 5114, with an OPPS Addendum A rate of \$5,606.42. This is multiplied by 60% for an unadjusted labor amount of \$3,363.85, and in turn multiplied by the facility wage index of 0.9754 for an adjusted labor amount of \$3,281.10. The non-labor portion is 40% of the APC rate, or \$2,242.57. The costs do not exceed the threshold for outlier payment. The sum of the labor and non-labor portions is the Medicare facility specific amount of \$5,523.67. This is multiplied by 200% for a MAR of \$11,047.34.
- Payment for all other services on the bill is packaged with the primary comprehensive J1 service per Medicare policy regarding comprehensive APCs. See *Medicare Claims Processing Manual* Chapter 4 §10.2.3 for details.

The total recommended payment for the disputed services is \$11,047.34. The insurance carrier paid \$0.00. The amount due is \$11,047.34. This amount is recommended.

Conclusion

In resolving disputes over reimbursement for medically necessary health care to treat a compensable injury, the role of the division is to adjudicate payment following Texas laws and DWC rules. The findings in this decision are based on the evidence available at the time of review. Even though not all the evidence was discussed, it was considered. For the reasons above, the requestor has established payment is due. As a result, the amount ordered is \$11,047.34.

ORDER

In accordance with Texas Labor Code Section 413.031 and 413.019 (if applicable), based on the submitted information, DWC finds the requestor is entitled to additional reimbursement. DWC hereby ORDERS the respondent to remit to the requestor \$11,047.34, plus accrued interest per 28 TAC §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	<u>Grayson Richardson</u>	<u>October 25, 2019</u>
Signature	Medical Fee Dispute Resolution Officer	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.