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**
PAIN & RECOVERY CLINIC OF NORTH HOUSTON

**Respondent Name**
SERVICE LLOYDS INSURANCE COMPANY

**MFDR Tracking Number**
M4-20-0171-01

**Carrier's Austin Representative**
Box Number 01

**MFDR Date Received**
September 18, 2019

## *REQUESTOR'S POSITION SUMMARY*

**Requestor's Position Summary:** "The denial is based on a peer review/review of medical records, however, the denial codes state there is an extent of injury dispute. We billed and treated the compensable injury. The services were AUTHORIZED by the precertification department which means that it is NOT subject to retrospective review (peer review) and in violation of Pre-Authorization Rule 134.600. The claim was finally adjudicated at the time services were rendered. We submitted our bills and proper clinical documentation in a timely fashion. We feel that our facility should be paid according to the workers compensation fee schedule guidelines."

**Amount in Dispute:** $8,937.50

## *RESPONDENT'S POSITION SUMMARY*

**Respondent's Position Summary:** "We are upholding the prior reviews. Per Physician's first report of injury is... In addition, PLN 11 dated 2/19/19 confirms... Treatment is not for compensable... thus denied accordingly indicating extent of injury."

**Response Submitted by:** AViDEL

## *SUMMARY OF DISPUTED SERVICE(S)*

| Date(s) of Service | Disputed Service(s) | Amount In Dispute | Amount Due |
|---|---|---|---|
| April 15, 2019 through June 3, 2019 | 97799-CP-GP | $8,937.50 | $400.00 |

## *FINDINGS AND DECISION*

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

### Background

1. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code (TAC) §133.20 sets out the medical bill submission procedures for health care providers.
3. 28 TAC §102.4 establishes rules for non-Commission communications.
4. TLC §408.027 sets out the provisions related to payment of health care providers.
5. TLC §408.0272 provides for certain exceptions to untimely submission of a medical claim.
6. 28 TAC §134.600 sets out the guidelines for preauthorization, concurrent review, and voluntary certification of healthcare.
7. 28 TAC §134.204 sets out the fee guidelines for the workers' compensation specific services.

8. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
   - 219 – Based on extent of injury
   - 751 – Extent of injury not finally adjudicated
   - Note: Treatment is not for compensable ... but is for disputed conditions. PLN 11 disputing ... The compensable injury is limited to a...
   - 758 – The bill was submitted timely in accordance with DWC Chapter 133
   - Note: A healthcare provider shall not submit a new or corrected medical bill later than the 95th day that the services are provided. Bill should be received on or before 7/29/19. Carrier initially received on 8/12/19. For proof of timely filing visit www.tdi.texas.gov
   - 320 – Non-accredited interdisciplinary program. Payment reduced 20% below MAR or 20% below usual and customary
   - 397 – Allowance is based on utilization review pre-authorization
   - 95 – Plan procedures not followed
   - U05 – The billed service exceeds the UR amount authorized

## Issue(s)

1. Did the insurance carrier raise CEL issues for service dates, April 15, 2019 through April 22, 2019; May 15, 2019, May 16, 2019 and May 23, 2019 through June 3, 2019?
2. What is the timely filing deadline applicable to service dates April 25, 2019, April 26, 2019 and April 29, 2019?
3. Did the insurance carrier raise preauthorization issues for service date May 17, 2019?
4. Is the requestor entitled to reimbursement?

## Findings

1. The requestor seeks reimbursement for chronic pain management services rendered on April 15, 2019 through April 22, 2019; May 15, 2019, May 16, 2019 and May 23, 2019 through June 3, 2019. The insurance carrier denied the disputed services with denial reduction codes "219" and "751". Documentation provided by the parties indicates that the insurance carrier denied payment to the requestor due to an unresolved extent of injury issue. The carrier's explanation of benefits was timely presented to the requestor in the manner required by 28 TAC §133.240.

   28 TAC §133.305(b) states that if a dispute regarding extent of injury exists for the same service for which there is a medical fee dispute, the dispute regarding extent of injury shall be resolved prior to the submission of a medical fee dispute.

   The service in dispute rendered on April 15, 2019 through April 22, 2019; May 15, 2019, May 16, 2019 and May 23, 2019 through June 3, 2019, contains unresolved extent of injury issues. For that reason, these dates of service are not eligible for adjudication of a medical fee under 28 TAC §133.307.

2. The requestor seeks reimbursement for chronic pain management services rendered on April 25, 2019, April 26, 2019 and April 29, 2019. The insurance carrier denied the disputed services with denial reduction code "758."

   28 TAC §133.20(b) requires that, except as provided in TLC §408.0272, "a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided." TLC §408.0272(b) provides that: 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; or
   (2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.

   The requestor submitted insufficient documentation to support that any of the exceptions described in TLC §408.0272 apply to the service(s) in this dispute. For that reason, the health care provider was required to submit the medical bill not later than 95 days after the date the disputed services were provided.

TLC §408.027(a) states that "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 TAC §102.4(h) states that: "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."

Review of the submitted information finds insufficient documentation to support that a medical bill was submitted within 95 days from the date the service(s) were provided. Consequently, the requestor has forfeited the right to reimbursement for dates of service April 25, 2019, April 26, 2019 and April 29, 2019, due to untimely submission of the medical bill, pursuant to TLC §408.027(a).

3. The requestor seeks reimbursement for chronic pain management services rendered on May 17, 2019. The insurance carrier denied the disputed services with denial reduction code "320, 397, 95 and U05."

Per 28 TAC §134.600 "(p) Non-emergency health care requiring preauthorization includes: (10) chronic pain management/interdisciplinary pain rehabilitation."

Per 28 TAC §134.600 "(c) The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care."

The requestor submitted a copy of a preauthorization letter issued by Mitchell, dated April 10, 2019. The following services were preauthorized:

| | | |
|---|---|---|
| Items Requested | Chronic pain program hourly, lumbar spine, per 04/08/19 order. QTY: 80.00 | |
| UR Decision | Approved | Chronic pain program hourly, lumbar spine, per 04/08/19 order. QTY: 80.00 |
| Dates of Service(s) | From: 04/10/19 To: 10/07/19 | |

The requestor billed CPT Code 97799-CP-GP rendered on May 17, 2019, within the preauthorized timeframes, as a result, the DWC finds that the requestor is entitled to reimbursement for the disputed date of service.

Per 28 TAC §134.204 (h)(1)(A-B) "The following shall be applied to Return To Work Rehabilitation Programs for billing and reimbursement of Work Conditioning/General Occupational Rehabilitation Programs, Work Hardening/ Comprehensive Occupational Rehabilitation Programs, Chronic Pain Management/ Interdisciplinary Pain Rehabilitation Programs, and Outpatient Medical Rehabilitation Programs. To qualify as a DWC Return to Work Rehabilitation Program, a program should meet the specific program standards for the program as listed in the most recent Commission on Accreditation of Rehabilitation Facilities (CARF) Medical Rehabilitation Standards Manual, which includes active participation in recovery and return to work planning by the injured employee, employer and payor or carrier. (1) Accreditation by the CARF is recommended, but not required...(B) If the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR."

Review of the submitted documentation finds that the requestor billed CPT code 97799-CP-GP and did not appended modifier –CA to identify that the chronic pain management program is CARF accredited, as a result, reimbursement is calculated per 28 TAC §134.204 (h) for dates of service May 17, 2019. Reimbursement for non-CARF accredited programs is calculated at 80% of the MAR for each date of service.

To determine reimbursement for a chronic pain management program, the DWC applies the following:

28 TAC §134.204 (h) (1) (B) if the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR.

28 TAC §134.204(h) (5) states in pertinent part, "The following shall be applied for billing and reimbursement of Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs. (A) Program shall be billed and reimbursed using CPT Code 97799 with modifier "CP" for each hour. The number of hours shall be indicated in the unit's column on the bill... Units of less than one hour shall be prorated in 15-minute increments. A single 15-minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes." The following calculation determines the Maximum Allowable Reimbursement (MAR):

| Date of Service | Submitted Code | Billed Charges | Units | Non-CARF 80% of $125 MAR = $100/hour | Paid Amount | Amount Due |
|---|---|---|---|---|---|---|
| May 17, 2019 | 97799-CP-GP | $500.00 | 4 | $100 x 4 = 400.00 | $0.00 | $400.00 |
| Total | | | | | $0.00 | $400.00 |

4. Review of the submitted documentation finds that the requestor is entitled to reimbursement for date of service May 17, 2019, in the amount of $400.00. As a result, this amount is recommended.

## Conclusion

For the reasons stated above, the DWC finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $400.00.

## *ORDER*

Based upon the documentation submitted by the parties and in accordance with the provisions of TLC Sections 413.031 and 413.019 (if applicable), the DWC has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The DWC hereby ORDERS the respondent to remit to the requestor the amount of $400.00 plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this Order.

## Authorized Signature

| Signature | Medical Fee Dispute Resolution Officer | October 18, 2019<br>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, 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 DWC within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the DWC using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR 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 DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 TAC §141.1(d).

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