



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

UNIVERSITY PROFESSIONAL SERVICES

Respondent Name

INDEMNITY INSURANCE CO OF NORTH AMERICA

MFDR Tracking Number

M4-20-1543-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

FEBRUARY 4, 2020

REQUESTOR'S POSITION SUMMARY

"We dispute Gallagher Bassett denial of the attached claim because this office has corrected all billing denials that Gallagher Bassett has issued to this office, please see attached EOBs. Gallagher Bassett denied as modifier not valid, this was corrected and replaced/edited with modifier XE-Distinct procedural service. The bill was then resubmitted to Gallagher Bassett and the denied as duplicate...the attached bill is not a duplicate."

Amount in Dispute: \$155.00

RESPONDENT'S POSITION SUMMARY

The respondent did not submit a response to this request for medical fee dispute resolution.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 18, 2019	CPT Code 70480-26-XE	\$155.00	\$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 (DWC).

Background

- 28 Texas Administrative Code (TAC) §133.307, effective May 31, 2012, sets out the procedures for resolving medical fee disputes.
- Texas Labor Code §408.027, effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
- 28 TAC §102.4(h), effective May 1, 2005, sets out rules to determine when written documentation was sent.
- 28 TAC §133.20, effective January 29, 2009, sets out the health care providers billing procedures.
- The respondent reduced / denied payment for the disputed services with the following claim adjustment reason codes:

Explanation of Benefits dated August 14, 2019

- 18-Exact duplicate claim/service.

Explanation of Benefits dated September 12, 2019

29-The time limit for filing has expired

Explanation of Benefits dated September 17, 2019

- 16-Claim service lacks information or has submission billing error(s).

Issues

Is the requestor due reimbursement for CPT code 70480-26-XE rendered on March 18, 2019?

Findings

1. The Austin carrier representative for Indemnity Insurance Co of North America is Downs Stanford, PC. Downs Stanford, PC acknowledged receipt of the copy of this medical fee dispute on February 25, 2020. Rule §133.307(d)(1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division may base its decision on the available information

As of today, no response has been received from the carrier or its representative. We therefore base this decision on the information available as authorized under §133.307(d)(1).

2. The requestor provided professional services in the state of Oregon on March 18, 2019 to an injured employee with an existing Texas Workers' Compensation claim. The requestor was dissatisfied with the respondent's final action. The requestor filed for reconsideration and was denied payment after reconsideration. The requestor filed for dispute resolution under 28 TAC §133.307. The DWC concludes that because the requestor sought the administrative remedy outlined in 28 TAC §133.307 for resolution of the matter of the request for additional payment, the dispute is to be decided under the jurisdiction of the Texas Workers' Compensation Act and applicable rules.
3. The requestor is seeking payment of \$155.00 for CPT code 70480-26-XE rendered on March 18, 2019.
4. The requestor initially billed CPT codes 70480-26 and 70450-26 rendered on the same date of service. The respondent denied code 70480-26-XE based upon reason code 29.
5. To determine if CPT code 70480-26-XE is eligible for reimbursement the DWC refers to the following statute:
 - 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 TAC §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 TAC §133.20(g) states "Health care providers may correct and resubmit as a new bill an incomplete bill that has been returned by the insurance carrier."
 - 28 TAC §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.”

- Per the Texas Register Preamble, “Section 133.250(d)(1). Comment: Commenters recommend subsection 133.250(d)(1) be amended to require modifiers and number of units in addition to the original billing codes. Agency Response: The Division declines to make the requested change. A reconsideration request may include corrections relating to modifiers and/or number of units. For this reason, a request for reconsideration may include changes in the number of units or modifiers from that in the original bill for proper processing and payment of the bill.”
6. The DWC reviewed the submitted documentation and finds:
- The date of service in dispute is March 18, 2019.
 - The requestor initially billed CPT code 70480-26.
 - The requestor did not submit documentation to support when the initial bill was sent.
 - The requestor then added modifier XE to code 70480-26.
 - The respondent denied CPT code 70480-26-XE based upon “29-The time limit for filing has expired.”
 - Per the Texas Register Preamble, Section 133.250(d)(1), the addition of modifiers on a reconsideration bill does not constitute a new bill.
 - The documentation does not contain any evidence such as a fax, personal delivery, electronic transmission, or certified green cards to support when the original bill was sent to the respondent or if it was within the 95 day deadline.
 - The requestor did not sufficiently support that the bill was submitted to the respondent within the 95 day deadline set out in Labor Code §408.027(a) and 28 TAC §133.20(B).
 - The respondent’s denial of payment based upon timely filing is supported.

Conclusion

For the reasons stated above, the DWC 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 DWC has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	04/30/2020
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 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 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 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 DWC. **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.