



**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**

STRUCTURE ORTHOPAEDICS, PLLC

**Respondent Name**

TEXAS MUTUAL INSURANCE CO

**MFDR Tracking Number**

M4-20-1583-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

FEBRUARY 21, 2020

**REQUESTOR'S POSITION SUMMARY**

"4 attached claims were denied for timely filing by Texas Mutual. Originally these claims were sent to the employer [redacted] who assured us that she forwarded our claims to Texas Mutual. Please see a printout that indicates our first paper submittal."

**Amount in Dispute:** \$70,865.81

**RESPONDENT'S POSITION SUMMARY**

"Texas Mutual on 11/4/2019 received the bill from ORTHOPAEDIC TRAUMA SPECIALIST. Rule 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 95<sup>th</sup> 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 95<sup>th</sup> 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 submitted, 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 rationale given by the requestor for the late bill is not consistent with the Rule above."

Response Submitted by: Texas Mutual Insurance Co.

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 15, 2019	CPT Code 99223	\$2,185.67	\$0.00
July 16, 2019	CPT Code 27535-AS-RT	\$9,739.54	\$0.00
July 16, 2019	CPT Code 27403-AS-RT	\$6,949.09	\$0.00
July 16, 2019	CPT Code 27535	\$9,739.54	\$0.00
July 16, 2019	CPT Code 20690	\$6,453.37	\$0.00

July 16, 2019	CPT Code 27403	\$6,949.09	\$0.00
July 19, 2019	CPT Code 27826	\$9,040.38	\$0.00
July 19, 2019	CPT Code 27792	\$7,102.84	\$0.00
July 19, 2019	CPT Code 20694	\$3,665.91	\$0.00
July 19, 2019	CPT Code 27826-AS-RT	\$9,040.38	\$0.00
TOTAL		\$70,865.81	\$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**

1. 28 Texas Administrative Code (TAC) §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. Texas Labor Code §408.0272, effective September 1, 2007, provides for exceptions for timely submission of a claim by a health care provider.
4. 28 TAC §102.4(h), effective May 1, 2005, sets out rules to determine when written documentation was sent.
5. 28 TAC §133.20, effective January 29, 2009, sets out the health care providers billing procedures.
6. The services in dispute were reduced / denied payment by the respondent with the following claim adjustment reason codes:
  - CAC-29-The time limit for filing has expired.
  - 731-Per 133.20(B) provider shall not submit a medical bill later than the 95th day after the date the service.
  - 928-HCP must submit documentation to support exception to timely filing of bill (408.0272). Notification of erroneous submission not included.
  - 925-Not submitted timely per rule 133.20(B). Not later then 95<sup>th</sup> day after the date HCP is notified or erroneous submission of the medical bill.

#### **Issues**

1. Were the disputed services submitted timely to the respondent?
2. Is the requestor entitled to reimbursement for professional services rendered from July 15 through July 19, 2019?

#### **Findings**

1. The requestor is seeking medical fee dispute resolution in the amount of \$70,865.81 for professional services, CPT codes 99223, 27535-AS-RT, 27403-AS-RT, 27826-AS-RT, 27403, 27535, 20690, 27826, 27792, and 20694 rendered from July 15 through July 19, 2019.
2. According to the explanation of benefits, the respondent denied reimbursement for the disputed services based upon timely filing the bill with the insurance carrier.
3. The requestor contends that reimbursement is due because "Originally these claims were sent to the [redacted] who assured us that she forwarded our claims to Texas Mutual. Please see a printout that indicates our first paper submittal." In support of their position, the requestor submitted a copy of a computer printout that has a hand written statement "claim filed on 7/23 to [redacted]."

4. To determine if the disputed services were submitted timely 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.”
- Labor Code §408.0272(b)(1) states “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.”
- 28 TAC §133.20(j)(1) states, “The health care provider may elect to bill the injured employee's employer if the employer has indicated a willingness to pay the medical bill(s). Such billing is subject to the following: (1) A health care provider who elects to submit medical bills to an employer waives, for the duration of the election period, the rights to: (C) medical dispute resolution as provided by Labor Code §413.031.”
- 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.”

5. Both parties to this dispute submitted documentation for consideration in support of their position. The DWC reviewed the documentation and finds:

- The dates of service in dispute are July 15 through July 19, 2019.
- The respondent denied reimbursement for the services based upon timely filing.
- The requestor submitted a copy of a computer printout that has a hand written statement, “claim filed on [redacted].” No documentation was submitted that the employer was willing to pay the medical bills per 28 TAC §133.20(j).
- The requestor did not submit any documentation to support the employer met one of the exceptions for timely filing outlined in Labor Code 408.0272(b)(1).
- The requestor also wrote, “We’ve talked to [redacted] who assured us that she forwarded our claims to Texas Mutual.” The requestor did not submit any proof that [redacted] forwarded the disputed claims to the respondent.
- 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 bill qualified for exception of timely filing per Labor Code 408.0272(b)(1).
- The respondent’s denial of payment based upon timely filing is supported.

6. The DWC finds the requestor is not eligible for reimbursement for the disputed services CPT codes 99223, 27535-AS-RT, 27403-AS-RT, 27826-AS-RT, 27403, 27535, 20690, 27826, 27792, and 20694 rendered from July 15 through July 19, 2019.

## **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**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
03/26/2020  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Director of Medical Fee Dispute Resolution

\_\_\_\_\_  
03/26/2020  
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.**