



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

NEXTCARE HOLDINGS

Respondent Name

TX PUBLIC SCHOOL WC PROJECT

MFDR Tracking Number

M4-20-1764-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

MARCH 17, 2020

REQUESTOR'S POSITION SUMMARY

"We originally billed the incorrect insurance***Creative Risk Solutions/electronically & by mail when submitting POTF to the correct insurance ***Creative Risk Funding/they refused to accept our documentation as proof we billed n a timely manner. Please consider our plea to have the bills processed for payment...this is also partly them lacking to reach out to us w/proper billing info. We the billing office did not receive any correspondence on their part to bill them. During which when a PLN 11 was filed they did not provide us a copy for our records either. There has been no cooperation or intent on the part of Creative Risk Funding to relieve patient from her w/c medical bills. Please assist us in getting this resolved as we in good faith provided the necessary documents to obtain payment."

Amount in Dispute: \$2,910.00

RESPONDENT'S POSITION SUMMARY

"CBC contends that Nextcare was in possession of all the information it needed to timely submit its bills to CRF, as reflected by the fact that it faxed all medical records to CRF within days after each medical visit. Consequently, Nextcare's reliance on Texas Labor Code Ann. 408.0272 is not supported by the evidence."

Response Submitted by: Creative Risk Funding

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 18, 2019	██████████	\$350.00	\$0.00
March 29, 2019	██████████	\$350.00	\$0.00
April 8, 2019	██████████	\$365.00	\$0.00
April 16, 2019	██████████	\$350.00	\$0.00
May 25, 2019	██████████	\$350.00	\$0.00

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 5, 2019	[REDACTED]	\$350.00	\$0.00
July 12, 2019 July 19, 2019 August 5, 2019	[REDACTED]	\$265.00/each	\$0.00
TOTAL		\$2,910.00	\$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

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:
 - 29-The time limit for filing has expired.
 - 286-Appeal time limits not met.
 - W3-Reconsideration/Appeal
 - Reconsideration of...original receipt of this bill was 11.12.2019, past the 95 day filing limit. Documentation submitted is not considered sufficient proof of timely filing. Additionally, this reconsideration was not timely filed in accordance with rule §133.250(B) The health care provider shall submit the request for reconsideration no later than 10 months from the date of service.
 - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Was the dispute filed in the form and manner required by 28 TAC §133.307?
2. Is the respondent's denial of payment based upon timely filing supported?
3. Does the documentation support requestor's position that the disputed bills qualify for exception for timely filing?

Findings

1. 28 TAC §133.307(c) states, "Requests. Requests for MFDR shall be filed in the form and manner prescribed by the division. Requestors shall file two legible copies of the request with the division 2) Health Care Provider or Pharmacy Processing Agent Request. The requestor shall provide the following information and records with the request for MFDR in the form and manner prescribed by the division. The provider shall file the request with the MFDR Section by any mail service or personal delivery. The request shall include: (F) the treatment or service code(s) in dispute."

A review of the DWC-60 finds the requestor incorrectly completed the form by listing the diagnosis instead of the treatment or service code.

The DWC reviewed the submitted medical bills and corresponding EOBs and finds the disputed services are:

Dates of Service	Disputed Services	Amount In Dispute
March 18, 2019	CPT Code 99204	\$350.00
March 29, 2019	CPT Code 99213	\$350.00
April 8, 2019	CPT Code 99213 and 99080-73	\$365.00
April 16, 2019	CPT Code 99213	\$350.00
May 25, 2019	CPT Code 99213	\$350.00
July 5, 2019	CPT Code 99213	\$350.00
July 12, 2019 July 19, 2019 August 5, 2019	CPT Code 99213	\$265.00/each
TOTAL		\$2,910.00

The DWC finds the requestor did not complete the DWC-60 form in the form and manner required by 28 TAC §133.307.

2. The requestor is seeking payment of \$2,910.00 for professional services rendered from March 18, 2019 through August 5, 2019.
3. According to the explanation of benefits, the respondent denied reimbursement for the disputed services based upon reason code "29-The time limit for filing has expired."
4. To determine if the disputed services are eligible for reimbursement the DWC refers to the following statute:
 - Texas 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."
 - Texas 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(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 §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 all the documentation and finds
- The dates of service in dispute are March 18, 2019 through August 5, 2019.
 - The disputed dates of service were denied reimbursement based upon time limit for filing claim had expired.
 - The requestor agrees with the respondent that bills were not timely filed; however, contends that payment is due because, “We originally billed the incorrect insurance.”
 - In support of their position the requestor submitted the following documentation:
 - ❖ Letter dated February 28, 2020 from Creative Risk Funding advising of untimely filing.
 - ❖ PLN11 dated April 18, 2019 from Creative Risk Funding disputing extent of injury.
 - ❖ Computerized Patient Notes indicates “Claim and w/comp records” were sent of May 3, 2019 to Creative Risk Solutions, PO Box 9207, Des Moines, IA.
 - ❖ Computerized Patient Notes indicates “9.30.19...This does not belong to Creative Risk Solutions”.
 - ❖ Computerized Patient Notes indicates on January 27, 2020, a phone call was made to Creative Risk Funding for payment status.
 - ❖ Computerized Patient Notes indicates on January 30, 2020 a phone call was made to Creative Risk Funding for reconsideration of payment.
 - ❖ Email dated February 6, 2020 from Creative Risk Funding to requestor regarding reconsideration of payment on 10 bills.
 - ❖ Email dated February 28, 2020 from Creative Risk Funding to requestor upholding denial of payment due to untimely filing next option was MFDR.
 - ❖ Claims for disputed dates of service that support were originally billed to WC Creative Risk Solutions.
 - ❖ Claim History reports that support “claim sent to the payer” on March 25, April 8, April 12, April 19, May 29, July 11, July 18, July 23, and August 23, 2019.
 - ❖ Letters to respondent dated November 1, 2019 requesting payment.
 - The respondent disagrees that payment is due because, “CBC contends that Nextcare was in possession of all the information it needed to timely submit its bills to CRF, as reflected by the fact that it faxed all medical records to CRF within days after each medical visit. Consequently, Nextcare’s reliance on Texas Labor Code Ann. 408.0272 is not supported by the evidence...On November 12, 2019, CRF received several letters and medical bills from Nextcare encompassing the period from

March 18, 2019 through August 5, 2019. In its letters, Nextcare advised it was writing to ‘appeal’ the bills denied for timely filing despite the fact this was the first time it was submitting its bills to CRF. Nextcare went on to explain that according to its records, it timely submitted its bills to *Creative Risk Solutions*, a different insurance entity than CRF. However,, Nextcare offered no explanation as to why it was previously able to fax clinical records and work status reports (DWC-73s) to CRF within days after each medical visit that correctly identified CRF by name in Box 11 and by fax number in Box 12 of the DWC-73 form...Nextcare was fully cognizant of the fact that CRF was the third-party administrator for CBC in this claim. Although the corporate office inadvertently forwarded bills for the dates in question to Creative Risk Solutions, this error was entirely avoidable had it only communicated with its local clinic where services were rendered.”

- ❖ DWC-73s dated March, April, May, July, August , 2019, that indicate Creative Risk Funding as the insurance carrier.
- ❖ Medical records received via fax on April 1, April 9, and July 8, 2019.
- The respondent supported position that the requestor had insurance carrier information it needed to timely submit its bills.
- The requestor did not support that the error for billing Creative Risk Solutions qualifies for exception for timely filing under Texas Labor Code §408.0272(b)(1).
- The requestor did not sufficiently support that the claim was submitted to the respondent within the 95 day deadline set out in Texas 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

Signature

Medical Fee Dispute Resolution Officer

04/17/2020
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.