



**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**

M4-20-1828-01

**Carrier's Austin Representative**

Box Number 01

**MFDR Date Received**

MARCH 30, 2020

**REQUESTOR'S POSITION SUMMARY**

"This claim was billed to Creative Risk Solutions incorrectly. The correct w/c ins carrier is Creative Risk Funding. Neither the employer nor the adjuster @ the Creative Risk Funding Dept called to provide us with the correct billing info. They rec'd our medical records & never submitted a letter or EOB requesting bills. We the provider submitted proof of timely that the bills were submitted in a timely manner yet to the incorrect is carrier. After numerous appeals they have denied & not considered our plea."

**Amount in Dispute:** \$1,135.00

**RESPONDENT'S POSITION SUMMARY**

"Nextcare was fully cognizant of the fact that CRF was the third-party administrator for [employer] 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."

**Response Submitted by:** Creative Risk Funding, Inc.

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 6, 2019	CPT Codes 99204-25 J1885 (X4) and 96372	\$435.00	\$0.00
August 13, 2019	CPT Code 99213	\$350.00	\$0.00
August 20, 2019	CPT Code 99213	\$350.00	\$0.00
TOTAL		\$1,135.00	\$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.
  - W3-Reconsideration/Appeal
  - Our records show that provider was aware of workers' compensation on 08.08.2019 fax was received from provider for medical notes date of service 08.06.2019.
  - 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 did not complete the DWC-60 form by leaving blank the column titled *Treatment or Service Codes in Dispute*. The DWC identified the disputed services by reviewing the submitted bills and corresponding EOBs.

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 \$1,135.00 for professional services rendered from August 6, 2019 through August 20, 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 August 6, 2019 through August 20, 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, “Neither the employer nor the adjuster @ the Creative Risk Funding Dept called to provide us with the correct billing info. They rec'd our medical records & never submitted a letter or EOB requesting bills.”
  - In support of their position the requestor submitted the following documentation:
    - ❖ Letter dated March 6, 2020 from Creative Risk Funding advising of untimely filing.
    - ❖ HCFA1500s listing WC Creative Risk Solutions, TX.
    - ❖ Computerized Claim History reports that indicate they electronically billed Creative Risk Solutions on August 13, 15, and 23, 2019.
    - ❖ DWC-73s dated August 6, 13, and 20, 2019 that list in box 11 Creative Risk Funding as the insurance carrier.
  - The respondent disagrees that payment is due because, “Nextcare was fully cognizant of the fact that CRF was the third-party administrator for [employer] 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 listed above.
- ❖ Medical records received via fax on August 8, 13, and 20, 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

04/23/2020  
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.**