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
WALTER DEL GALLO, MD, PA

Respondent Name
TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number
M4-20-2473-01

Carrier's Austin Representative
Box Number 54

MFDR Date Received
JUNE 4, 2020

REQUESTOR'S POSITION SUMMARY

"All claims paid except the surgical claim."

Amount in Dispute: $2,609.00

RESPONDENT'S POSITION SUMMARY

"Additional review of documentation on initial bill submission and DWC60 packet all confirms that the bill was received at Texas Mutual on 3/31/2020. This received date is beyond 95 days from DOS, the bill was considered late after 3/10/2020."

Response Submitted by: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 3, 2019	CPT Code 29880	$2,609.00	$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 (TLC) §408.027, effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
3. TLC §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 by the respondent with the following reason codes:
   - CAC-29-The time limit for filing has expired.
   - 731-Per Rule 133.20(B) providers 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.

Issues

Is the requestor entitled to reimbursement for CPT code 29880 rendered on December 3, 2019?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of $2,609.00 for CPT code 29880 rendered on December 3, 2019.

2. The respondent denied reimbursement for the disputed services based upon "CAC-29-The time limit for filing has expired."

3. To determine if the disputed services are eligible for reimbursement the DWC refers to the following statute:
   - TLC §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."

   - TLC §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 §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."

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

   - The date of service in dispute is December 3, 2019.
   - CPT code 29880 was denied reimbursement based upon time limit for filing claim had expired.

- The requestor submitted a bill dated March 31, 2020.
- The respondent wrote, “on initial bill submission and DWC60 packet all confirms that the bill was received at Texas Mutual on 3/31/2020.”
- The requestor submitted a copy of the Operative Report with a facsimile date stamp of December 4, 2019.
- The respondent wrote “The healthcare provider also noted on the top portion of the op report confirming an incoming fax from ‘Surgical’ on 12/4/2019; however that date stamp is not consistent with any incoming faxes date stamped to Texas Mutual per fax cover sheet (DWV 60 packet pg. 4-6). The rationale given by the requestor for the late bill is not consistent with the Rule above.”
- The fax numbers on the Operative Report and the fax cover sheet to Texas Mutual are different.
- The requestor did not support that the fax number on the Operative Report was the respondent.
- TLC §408.0272(b)(1) provides for the exception to timely filing based upon three scenarios noted above.
- The requestor did not support that the bill was sent to an insurer that meets one of the exceptions for timely filing.
- The bill, Transaction Submission History report, and cover sheet support requestor billed the respondent on March 31, 2020. This date is beyond the 95 day deadline.
- The requestor did not 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

		07/09/2020
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.