



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

DR FERRAL L ENDSLEY

Respondent Name

ZURICH AMERICAN INSURANCE CO

MFDR Tracking Number

M4-20-2508-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

JUNE 15, 2020

REQUESTOR'S POSITION SUMMARY

"A fee dispute is being filed due to the multiple denials of this medical bill. The original bill was sent to the employer, per THEIR request on 9/23/19 via fax. Hadn't received payment. I contacted who I thought was the employer (turned out it was the EMPLOYEE) after several months of no payment. Apparently, the employee contacted Zurich and said we were trying to bill HIM. I was not aware that the person I called was the injured employee. I thought I had called the employer...On or around 5/5, Brittany from Zurich called and inquired about the claim stating that the employee had contacted her...She said for me to sent the bill to Zurich along with the original fax confirmation sheet from the original bill being sent on 9/23. I sent the bill to Zurich with the required information plus the fax confirmation sheet on 5/7/20...According to my calculations, 9/23 is still within 95 day timely filing deadline and this bill should be paid along with interest by Zurich."

Amount in Dispute: \$188.00

RESPONDENT'S POSITION SUMMARY

"The carrier has denied the bill on the basis that the provider did not timely submit the medical bill to Zurich."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 18, 2019	Office Visit CPT Code 99203	\$173.00	\$0.00
	Work Status Report CPT Code 99080-73	\$15.00	\$0.00
TOTAL		\$188.00	\$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 Texas Administrative Code §134.203, effective March 1, 2008, sets out the reimbursement guidelines for professional services.
6. The services in dispute were reduced / denied by the respondent with the following reason codes:
 - 29-The time limit for filing has expired.
 - P12-Workers' compensation jurisdictional fee schedule adjustment.
 - W3-Request for reconsideration or appeal.

Issues

Is the requestor entitled to reimbursement for CPT codes 99203 and 99080-73 rendered on June 18, 2019?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$188.00 for CPT codes 99203 and 99080-73 rendered on June 18, 2019.
2. The respondent denied reimbursement for the disputed services based upon "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 §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 June 18, 2019.
 - The requestor states, “The original bill was sent to the employer, per THEIR request on 9/23/19 via fax. Hadn’t received payment. I contacted who I thought was the employer (turned out it was the EMPLOYEE) after several months of no payment. Apparently, the employee contacted Zurich and said we were trying to bill HIM. I was not aware that the person I called was the injured employee.”
 - On May 5, 2020, the respondent notified the requestor to bill Zurich.
 - The requestor billed Zurich on May 7, 2020.
 - This bill was denied based upon timely filing.
 - TLC §408.0272(b)(1) provides for three exceptions to timely filing. Billing the employer or employee is not one of the exceptions.
 - The respondent’s denial of payment for 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

_____	_____	07/02/2020
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.