



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

HEALTHCARE SUBROGATION GROUP

Respondent Name

XL INSURANCE COMPANY

MFDR Tracking Number

M4-20-2722-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

July 17, 2020

Response Submitted By:

No response submitted

REQUESTOR'S POSITION SUMMARY

The requestor did not submit a position summary for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.

RESPONDENT'S POSITION SUMMARY

The Austin carrier representative for XL Insurance America Inc., is Flahive Ogden & Latson. Flahive Ogden & Latson was notified of this medical fee dispute on July 21, 2020. 28 TAC §133.307(d)(1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division may base its decision on the available information. As of today, no response has been received from the carrier or its representative. We therefore base this decision on the information available as authorized under 28 TAC §133.307(d)(1).

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 12, 2017 through December 1, 2017	Professional Services	Not identified	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code (TLC) §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Background

1. TLC §409.0091 sets out the requirements for health care insurers to bill for and receive reimbursement from workers' compensation carriers for services provided to covered Texas injured employees.
2. 28 Texas Administrative Code (TAC) §102.3 applies to the computation of time.
3. 28 TAC §140.7 applies to Health Care Insurer Reimbursement.
4. 28 TAC §140.8 applies to Reimbursement of Medical Benefits.
5. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.

Issues

Did the subclaimant meet the requirements outlined in TLC §409.0091?

Findings

TLC §409.0091 was added by Acts 2007, 80th Leg., R.S., Ch. 1007 (H.B. 724), Sec. 8, and is effective for dates of injury on or after September 1, 2007, with few exceptions. The requestor of this medical fee dispute is Healthcare Subrogation Group. Healthcare Subrogation Group is an authorized representative of a private healthcare insurer. The health care insurer was not identified by subclaimant, that was not identified by - a health care insurer as defined by TLC §409.0091(a). Healthcare Subrogation Group and Anthem are collectively referred to as the subclaimant for the purposes of this medical fee dispute.

TLC §409.0091(c) states that health care paid by a health care insurer may be reimbursable as a medical benefit. The subclaimant alleges it paid for services provided to an injured employee with a compensable Texas workers' compensation claim and is seeking to recover an amount not identified on the DWC060 request. The insurance carrier XL Insurance American Inc., - a Texas workers' compensation insurance carrier – hereto after referred to as the carrier. The provisions of TLC §409.0091, and 28 TAC Rules §§140.7 and 140.8 apply to this request for reimbursement and are hereby considered.

1. TLC §409.0091(n) states, “(n) Except as provided by Subsection (s), a health care insurer must file a request for reimbursement with the workers' compensation insurance carrier not later than six months after the date on which the health care insurer received information under Section [402.084](#)(c-3) and not later than 18 months after the health care insurer paid for the health care service.”

In order for the subclaimant to recover amounts it paid on behalf of the injured employee that received the services in dispute, the subclaimant must request reimbursement from the carrier in the form, manner and timeframes prescribed by TLC §409.0091. Two concurrently running deadlines limit the subclaimants timeframe for a request for reimbursement from the carrier. These are found at TLC §409.0091(n).

The subclaimants submission for reimbursement must be sent not later than six months from the date of a data match, and not later than 18 months from the date that the subclaimant originally paid health care providers for the services in dispute. The DWC now considers the available documentation in order to establish the date of data match, the date of the request for reimbursement, and the date that the subclaimant originally paid for the services in dispute.

DATE OF THE DATA MATCH

The subclaimant did not provide any documentation to support the date of the data match pursuant to Section [402.084](#)(c-3). As a result, the DWC finds that the subclaimant provided insufficient documentation to support that the injured employee contains a compensable Texas workers' compensation claim.

REQUEST FOR REIMBURSEMENT – 6 MONTH TIMEFRAME

The subclaimant did not submit any documentation to support that it billed the carrier using DWC Form-026.

The DWC finds that due to the insufficient documentation, i.e. a copy of the DWCFORM-26, the 6-month timeframe cannot be determined.

DATE THE SUBCLAIMANT ORIGINALLY PAID FOR THE SERVICES – 18 MONTH TIMEFRAME

The DWC now considers whether the subclaimant met the 18-month timeframe as required by TLC §409.0091(n), which states, “The subclaimants submission for reimbursement must be sent not later ... 18 months from the date that the subclaimant originally paid health care providers for the services in dispute.”

The DWC finds that the subclaimant submitted no documentation to support that the 18-month timeframe was met.

2. The subclaimant is required to provide the information denoted in TLC §409.0091(f) with any request for reimbursement it makes to the carrier. DWC rule at Title 28 TAC §140.8(c) (1) requires that the request for reimbursement “be in the form and manner prescribed by the Division of Workers’ Compensation and must contain all the required elements on the form.”

The DWC prescribed DWC Form-026 titled *REQUEST FOR REIMBURSEMENT OF PAYMENT MADE BY THE HEALTH CARE INSURER* for use by subclaimants when making a request for reimbursement pursuant to §409.0091.

Review of the partial DWC-26 finds that the subclaimant did not included all the required information, specifically, the “provider’s FEIN” was not identified on the DWC-26 table. As a result, the DWC finds that the subclaimant has not identified minimum information required when submitting the DWC026 request for reimbursement for consideration to the workers compensation insurance carrier.

3. The DWC’s medical fee dispute resolution program concludes that the information and documentation provided by the subclaimant is insufficient to substantiate that a complete and timely request for reimbursement was made. For that reason, the DWC finds that the services in dispute are ineligible for payment pursuant to TLC §409.0091.

Conclusion

For each of the reasons stated, the Division finds that the requestor has failed to establish that reimbursement is due. As a result, the amount ordered is \$0.00.

_____	_____	October 23, 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 TAC §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 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*** along with any other required information specified in 28 TAC §141.1(d).

Si prefieres hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.