



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

PAIN AND RECOVERY CLINIC OF NORTH TEXAS

Respondent Name

UNION TANK CAR CO

MFDR Tracking Number

M4-21-1720-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

MAY 28, 2021

REQUESTOR'S POSITION SUMMARY

"I have provided the letter of certification as proof of timely filing."

Amount in Dispute: \$625.00

RESPONDENT'S POSITION SUMMARY

"It is pursuing reimbursement for a chronic pain management program in the amount of 5 hours. We are attaching a copy of carrier's EOBs dated April 1, 2021 and May 7, 2021. It is the carrier's position that the provider did not timely submit the medical bill to the carrier. The provider was required to submit the medical bill no later than the 95th day following the date of service. We are attaching a copy of the carrier's EOBs."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 18, 2020	CPT Code 97799-CP-CA-GP (X5)	\$625.00	\$625.00

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

- 28 Texas Administrative Code §133.307, effective February 22, 2021, sets out the procedures for resolving medical fee disputes.
- Texas Labor Code §408.027, effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
- 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. 28 TAC §134.230, effective July 17, 2016 sets out the reimbursement guidelines for return to work rehabilitation programs.
7. The services in dispute were reduced / denied by the respondent with the following claim adjustment reason codes:
 - 29, 00096-The time limit for filing has expired.
 - 4271-Per TX Labor Code Sec. 408.027, providers must submit bills to payors within 95 days of the date of service.
 - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

Does the documentation support requestor's position that the disputed bills were submitted timely?

Findings

1. The requestor is seeking payment of \$625.00 for chronic pain management program rendered on November 18, 2020.
2. 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."
3. To determine if the disputed professional 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.”
4. Both parties to this dispute submitted documentation for consideration in support of their position. The DWC reviewed the documentation and finds
 - The date of service in dispute is November 18, 2020.
 - The requestor submitted a copy of envelope date stamped “Received 11/25/2020” that supports a claim was submitted to respondent on March 22, 2019. The requestor did not submit a fax confirmation report to support this transmittal.
 - The requestor sufficiently supported position 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 not supported.
 5. The fee guideline for chronic pain management services is found in 28 TAC §134.230.
 6. 28 TAC §134.230(1)(A) states “Accreditation by the CARF is recommended, but not required. (A) If the program is CARF accredited, modifier "CA" shall follow the appropriate program modifier as designated for the specific programs listed below. The hourly reimbursement for a CARF accredited program shall be 100 percent of the maximum allowable reimbursement (MAR). (B) If the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR.”
 7. 28 TAC §134.230(5) states, “The following shall be applied for billing and reimbursement of Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs. (A) Program shall be billed and reimbursed using CPT code 97799 with modifier "CP" for each hour. The number of hours shall be indicated in the units column on the bill. CARF accredited programs shall add "CA" as a second modifier. (B) Reimbursement shall be \$125 per hour. Units of less than one hour shall be prorated in 15 minute increments. A single 15 minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes.”

The requestor billed 97799-CP-CA-GP; therefore, the disputed program is CARF accredited and reimbursement shall be 100% of the MAR.

The requestor billed for a total of 5 hours on the disputed dates of service; therefore, 100% of \$125.00 = \$125.00 X 5 hours = \$625.00. The respondent paid \$00.00. The requestor is due the difference of \$625.00

Conclusion

For the reasons stated above, the DWC finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$625.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the DWC has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The DWC hereby ORDERS the respondent to remit to the requestor the amount of \$625.00 plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

06/30/2021

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 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 TAC §141.1(d).

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