



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

TMH PHYSICIAN ASSOCIATES, PLLC

Respondent Name

CITY OF HOUSTON

MFDR Tracking Number

M4-21-0301-01

Carrier's Austin Representative

Box Number 29

MFDR Date Received

OCTOBER 19, 2020

REQUESTOR'S POSITION SUMMARY

"This bill was denied for timely filing. This bill was faxed multiple times to the carrier. The 1st time it was faxed on 05.22.2020...I called to check status on the bill on 06.29.20 and was told that the bill was not on file. I confirmed...the correct fax number, so I re-faxed to the same number and included my fax confirmation sheet as proof of timely filing. We received an eob dated 07.16.20 stating that the bill had been received on 06.29.20 and was denied for timely filing."

Amount in Dispute: \$2,875.00

RESPONDENT'S POSITION SUMMARY

The respondent did not submit a response to this request for medical fee dispute resolution.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 19, 2020	CPT Code 29822	\$2,875.00	\$1,194.27

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:
 - 29-The time limit for filing has expired.
 - 4271-Per TX Labor Code Sec. 413.016, providers must submit bills to payors within 95 days of the date of service.
 - 1014-The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
 - W3-Reconsideration.
 - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

Is the requestor entitled to reimbursement for CPT code 29822 rendered on March 19, 2020?

Findings

1. The Austin carrier representative for City of Houston is Dean G Pappas Law Firm LLC. Dean G Pappas Law Firm LLC received a copy of this medical fee dispute on October 27, 2020. Rule §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 §133.307(d)(1).

2. The requestor is seeking payment of \$2,875.00 for CPT code 29822 rendered on March 19, 2020.
3. The respondent denied reimbursement for the disputed service based upon “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:

The dispute was filed to TDI-DWC MFDR on October 19, 2020. TDI-DWC addresses the issue as follows:

- On March 13, 2020, Governor Greg Abbott issued a proclamation declaring that Covid-19 was a statewide public health disaster. The declaration states in pertinent part, “Pursuant to Section 418.016 of the code, any regulatory statute prescribing the procedures for conduct of state business or any order of rule of a state agency that would in any way prevent, hinder, or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency’s emergency response that is necessary to cope with this declared disaster, I hereby suspend such statutes and rules for the duration of this declared disaster for that limited purpose.”
- The Texas Department of Insurance issued Commissioner’s Bulletins# B-0010-20 as a result of the Governor’s Proclamation. The bulletin is in effect for the duration of the governor’s Covid-19 declaration, or until further notice from DWC. The bulletin notified the system participants that “Tolling of medical billing deadlines: Failure to submit a timely medical bill will be deemed an exception due to a catastrophic event under Labor Code Section 408.0272(b)(2).”

MFDR’s obligation under the Governor’s Proclamations and the Commission’s Bulletin is to accept date of service March 19, 2020, as timely because the 95 day deadline, in this case, is tolled.

- 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.”
- TLC §408.0272(b)(2) 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: (2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.”

- 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. The DWC reviewed all the documentation and finds:

- The date of service in dispute is March 19, 2020.
- The requestor submitted a fax confirmation report that supports the carrier received a copy of the claim on May 22, 2020. This date is within the 95-day period to submit the claim.
- The requestor 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.

6. 28 TAC §134.203(c)(1) states “To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83.”

28 TAC §134.203(c)(2) states “The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007.”

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = Maximum Allowable Reimbursement (MAR).

Review of Box 32 on the CMS-1500 finds that the services were rendered in zip code 77385 which is located in The Woodlands, Texas; therefore, the Medicare locality is “Rest of Texas.”

The carrier code for Texas is 4412 and the locality code for Rest of Texas is 99.

The Medicare participating amount for CPT code 29822 at this locality is \$569.36.

The DWC conversion factor for 2020 is 75.70.

The Medicare conversion factor for 2020 is 36.0896.

Using the above formula, the MAR is \$1,194.27. The respondent paid \$0.00. The difference between MAR and amount paid is \$1,194.27; this amount is recommended for reimbursement.

Conclusion

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 \$1,194.27 reimbursement for the disputed services.

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 Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,194.27 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

		1/21/2021
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.