



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

Southwest General Hospital

Respondent Name

XL Specialty Insurance Co

MFDR Tracking Number

M4-21-1040-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

March 1, 2021

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The purpose of this letter is to inform you that payment for services provided to the above referenced patient does not comply with Chapters 134.403 and 134.404 of Texas Administrative Code."

Amount in Dispute: \$10,791.91

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The Austin carrier representative for XL Specialty Insurance Co is Flahive Ogden & Latson who was notified of this medical fee dispute on March 9, 2021. 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).

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount in Dispute, Amount Due. Row 1: August 20 - 24, 2020, Outpatient Hospital Services, \$10,791.91, \$10,791.91

FINDINGS AND DECISION

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

Background

- 1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403 sets out the reimbursement guidelines for outpatient hospital services.
3. 28 Texas Administrative Code §133.240 sets out requirements of utilization review.
4. The insurance carrier reduced or denied the payment for the disputed services with the following claim

adjustment codes:

- 252 – An attachment/other documentation is required to adjudicate this claim/service
- 95 – Plan procedures not followed
- P12 – The billed service was reviewed by UR and denied
- P12 – Workers' compensation jurisdictional fee schedule adjustment

### **Issues**

1. Is the insurance carrier's denial supported?
2. What is the applicable rule for determining reimbursement for the disputed services?
3. Is the requestor entitled to additional reimbursement?

### **Findings**

1. The requestor is seeking reimbursement for outpatient hospital services rendered in August 2020. The insurance carrier denied the disputed services based on utilization review denial.

28 TAC §133.240 (p) states that all utilization review must be performed by an insurance carrier that is registered with or a utilization review agent that is certified by the Texas Department of Insurance to perform utilization review.

28 TAC §133.240 (q) states in pertinent part, if the insurance carrier is questioning the medical necessity or appropriateness of the health care services, the insurance carrier shall comply with the requirement that prior to the issuance of the adverse determination the insurance carrier shall afford the health care provider a reasonable opportunity to discuss the billed health care with a doctor.

Insufficient evidence was found to support the stated utilization review met the requirements of Rule 133.240 (p) and (q). The insurance carriers' denial is not supported and will not be considered in this review.

2. 28 TAC §134.403 (d) requires Texas workers' compensation system participants when coding, billing, reporting and reimbursement to apply Medicare payment policies in effect on the date of service.

The Medicare payment policy applicable to the services in dispute is found at [www.cms.gov](http://www.cms.gov), Claims processing Manual, Chapter 4, Section 10.1.1. Specifically, Payment Status Indicators and Ambulatory Payment Category (APC).

28 TAC 134.403 (f) states in pertinent part the reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register*. The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 143 percent when a separate request for implant reimbursement is not made and 130 percent when separate reimbursement for implants is made.

The Medicare facility specific amount is calculated when the APC payment rate is multiplied by 60% to determine the labor portion. This amount is multiplied by the facility wage index for the date of service. The non-labor amount is determined when the APC payment rate is multiplied by 40%. The sum of the labor portion multiplied by the facility wage index and the non-labor portion determines the Medicare specific amount. Review of the submitted medical bill and the applicable fee guidelines referenced above is shown below.

- Procedure code 27695 has status indicator J1, for procedures paid at a comprehensive rate. This code is assigned APC 5114. The OPPS Addendum A rate is \$5,981.95. This is multiplied by 60% for an unadjusted labor amount of \$3,589.17, in turn multiplied by facility wage index 0.842 for an adjusted labor amount of \$3,022.08.

The non-labor portion is 40% of the APC rate, or \$2,392.78.

The sum of the labor and non-labor portions is \$5,414.86.

The Medicare facility specific amount is \$5,414.86.

This is multiplied by 200% for a MAR of \$10,829.72.

3. The total recommended reimbursement for the disputed services is \$10,829.72. The insurance carrier paid \$0.00. The requestor is seeking additional reimbursement of \$10,791.91. This amount is recommended.

**Conclusion**

In resolving disputes over reimbursement for medically necessary health care to treat a compensable injury, the role of DWC is to adjudicate payment following Texas laws and DWC rules. The findings in this decision are based on the evidence available at the time of review. Even though not all the evidence was discussed, it was considered.

For the reasons above the requestor has established payment is due. As a result, the amount ordered is \$10,791.91.

**ORDER**

In accordance with Texas Labor Code Section 413.031 and 413.019 (if applicable) and based on the submitted information, DWC finds the requestor is entitled to additional reimbursement. DWC hereby ORDERS the respondent to remit to the requestor \$10,791.91, plus accrued interest per Rule §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

_____	_____	_____ <u>May 20, 2021</u>
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 Rule §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 DWC within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to DWC using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **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.**