



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

PATE REHABILITATION

Respondent Name

TARRANT COUNTY HOSPITAL DISTRICT

MFDR Tracking Number

M4-21-1578-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

MAY 6, 2021

REQUESTOR'S POSITION SUMMARY

"Resubmitting charges for 5 claims for the Residential Program...have never paid on clean claims per agreement."

Amount in Dispute: \$63,950.87

RESPONDENT'S POSITION SUMMARY

"The provider's DWC-60 Request for Medical Fee Dispute Resolution was filed with the Division on May 6, 2021. The service dates of January 27, 2020 through...April 26, 2020 were not timely filed for appeal...Additionally there has been a third party settlement. This is noted on the self-insured's EOR dated April 21, 2021."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. It lists service periods from January 2020 to September 2020 and corresponding amounts.

September 8, 2020 through September 11, 2020	Inpatient Comprehensive Residential Brain Injury Rehabilitation CPT Code 97799	\$3,800.00	\$0.00
September 14, 2020 through September 18, 2020		\$3,800.00	
September 21, 2020 through September 25, 2020		\$4,750.00	
TOTAL		\$63,950.87	\$0.00

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 (TAC) §133.307, effective February 22, 2021, sets out the procedures for resolving medical fee disputes.
2. Texas Labor Code §417.002, effective September 1, 1993 outlines the process for recovery in third-party settlements.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 16-Claim service/lacks information which is needed for adjudication. Remark codes whenever appropriate. Please submit medical records along with required/itemized statement for further review.
 - 29-The time limit for filing has expired.
 - P12-Workers' compensation jurisdictional fee schedule adjustment.
 - 4-The procedure code is inconsistent with the modifier used or a required modifier is missing.
 - 131-Claim specific negotiated discount.
 - B13-Previously paid. Payment for this claim/service may have been provided in a previous payment.
 - 215-Based on subrogation of a third party settlement.
 - 201-WC case settled. Patient is responsible for amount of this claim/service through WC Medicare set aside or other arrangement.
 - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Are dates of service January 27, 2020 through April 26, 2020 eligible for Medical Fee Dispute Resolution (MFDR) in accordance with 28 TAC §133.307?
2. Is the insurance carrier's reason for denial of payment supported?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$63,950.87 for Inpatient Comprehensive Residential Brain Injury Rehabilitation, CPT Code 97799, rendered from January 27, 2020 through September 25, 2020.
2. 28 TAC §133.307(c)(1) states: "Timeliness. A requestor shall timely file the request with the DWC's MFDR Section or waive the right to MFDR. The DWC shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute."

The DWC reviewed the submitted documentation and finds:

- The request for medical dispute resolution was received in MFDR on May 6, 2021.
- The disputed dates of service are January 27, 2020 through September 25, 2020.
- The disputed services do not involve issues identified in §133.307(c)(1)(B).
- One year from May 6, 2021 is May 6, 2020. Dates of service January 27, 2020 through April 26, 2020 are past the one year deadline for filing this dispute set out in 28 TAC §133.307.
- The DWC finds that the requestor has waived the right to medical fee dispute resolution for the services in dispute, as addressed in 28 TAC §133.307(c)(1) and (c)(1)(A). For that reason, the merits of the issues raised by the parties to this dispute for those dates have not been addressed.

3. On April 21, 2021, the insurance carrier denied payment for the disputed services based upon reason “215- Based on subrogation of a third party settlement.”

Texas Labor Code §417.002(a-c), RECOVERY IN THIRD-PARTY ACTION states,

(a) The net amount recovered by a claimant in a third-party action shall be used to reimburse the insurance carrier for benefits, including medical benefits, that have been paid for the compensable injury. (b) Any amount recovered that exceeds the amount of the reimbursement required under Subsection (a) shall be treated as an advance against future benefits, including medical benefits, that the claimant is entitled to receive under this subtitle. (c) If the advance under Subsection (b) is adequate to cover all future benefits, the insurance carrier is not required to resume the payment of benefits. If the advance is insufficient, the insurance carrier shall resume the payment of benefits when the advance is exhausted.

The DWC reviewed the submitted documentation and finds:

- No documentation was submitted to refute the carrier’s position that the services in dispute are subject to payment from a third-party settlement; and
- No documentation was found to support that the net amount recovered in the settlement was exhausted, and that the insurance carrier was required to pay benefits.

The DWC concludes that the requestor has failed to support that the disputed services are eligible for reimbursement. As a result, reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00. The Division emphasized that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution. Even though all the evidence was not discussed, it was considered.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

06/01/2021
Date

Signature

Director of Medical Fee Dispute Resolution

06/01/2021
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 Texas Administrative Code §133.307, 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 Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division 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 with the Division. **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.