



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

PACIFIC BILLING

Respondent Name

BERKLEY REGIONAL INS CO

MFDR Tracking Number

M4-21-1955-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

July 8, 2021

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "99456 RE FIRST EXAM PER ORDER PAYS \$500.00"

Amount in Dispute: \$375.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The provider was entitled to \$500.00 reimbursement; however, he was entitled to that amount only if he timely submitted his medical bill. He was required to submit it later than the 95th day following the date of his service, which was September 3, 2020. However, if you review the provider's DWC-60 packet, the first CMS-1500 that he submitted was dated February 20, 2021, which is five and a half months after the date of service.

The provider is not entitled to any reimbursement. However, the carrier has already reimbursed the provided the amount of \$259.39."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 3, 2020	Designated Doctor Examination (99456-W6-RE)	\$375.00	\$375.00

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 (DWC).

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.235 sets out the fee guidelines for examinations to determine extent of a compensable injury.
- Texas Labor Code §408.0272 provides certain exceptions for untimely submission of a medical bill.

Issues

1. Is Berkley Regional Insurance Company’s argument about timely submission supported?
2. Is Pacific Billing entitled to additional reimbursement for the examination in question?

Findings

1. In it’s position statement, Flahive, Ogden & Latson, on behalf of the insurance carrier, argued that Pacific Billing had not submitted the medical bill for the disputed service timely.

The health care provider does not forfeit its right to payment if the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.¹

Commissioner’s Bulletin # B-0010-20 dated March 25, 2020, declared “COVID-19 a statewide public health disaster.” The bulletin specified that “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).” This tolling period was lifted by Commissioner’s Bulletin# B-0004-21, effective March 1, 2021.

Submitted evidence supports that Pacific Billing submitted its initial bill on or about February 22, 2021, and its request for reconsideration on or about April 1, 2021.

Because the date of service and date of the first bill submission was within the time that the exception was in effect, and because the request for reconsideration was timely, the insurance carrier’s argument about timely filing is not supported.

2. Pacific Billing is seeking additional reimbursement for a designated doctor examination to determine the extent of a compensable injury.

The submitted documentation indicates that Gerald Halaby, M.D. performed the examination in question. The MAR for this examination is \$500.00.² The insurance carrier paid \$125.00. An additional reimbursement of \$375.00 is recommended.

Conclusion

The outcome of each independent medical fee dispute relies upon the relevant evidence presented by the requestor and the respondent at the time of adjudication. Though all the evidence in this dispute may not have been discussed, it was considered. For the reasons stated above, the Texas Department of Insurance, Division of Workers’ Compensation (DWC) finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$375.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the DWC has determined the requestor is entitled to additional reimbursement for the disputed services. The DWC hereby ORDERS the respondent to remit to the requestor \$375.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	August 19, 2021 Date
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¹ TLC §408.0272 (b)(2)
² 28 TAC §134.235

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 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 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 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.