



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Sports Ortho Surgery Center

**Respondent Name**

Texas Mutual Insurance Company

**MFDR Tracking Number**

M4-23-1268-01

**Carrier's Austin Representative**

Box Number 54

**DWC Date Received**

February 1, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
August 3, 2022	29827	\$14,000.00	\$6,453.48
	29824	\$9,000.00	\$1,428.80
<b>Total</b>		<b>\$23,000.00</b>	<b>\$7,882.28</b>

### Requestor's Position

Submitted documentation does not include a position statement from the requestor. Accordingly, this decision is based on the information available at the time of adjudication.

**Amount in Dispute:** \$23,000.00

### Respondent's Position

Texas Mutual on 12/08/2022 received the bill from Sportsortho Surgery Center, LLC.

Rule 133.20(b) states, "Except as provided in Labor Code 9408.0272(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 9408.0272 should be applied.

The rationale given by the requestor for the late bill is not consistent with the Rule above.

**Response Submitted by:** Texas Mutual Insurance Company

## **Findings and Decision**

### Authority

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

### Statutes and Rules

1. 28 Texas Administrative Code §133.240 sets out the procedures for payment or denial of medical bills.
2. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 TAC §134.402 sets out the fee guidelines for ambulatory surgery center services.

### Denial Reasons

Neither party submitted an explanation of benefits with reasons for the payment, reduction, or denial of payment for the disputed services.

### Issues

1. Did Texas Mutual Insurance Company take final action on the bill for the disputed service before medical fee dispute resolution was requested?
2. Is Sports Ortho Surgery Center entitled to additional reimbursement?

### Findings

1. Sports Ortho Surgery Center is seeking reimbursement for ambulatory surgery center (ASC) services. Texas Mutual Insurance Company acknowledged that it received a bill for the services considered in this dispute on December 8, 2022.

Per 28 TAC §133.240 (a), the insurance carrier is required to take final action by paying, reducing, or denying the service in question not later than 45 days after receiving the medical bill. This deadline is not extended by a request for additional information.

No evidence was provided to support that the insurance carrier took final action on the bill for the service in question.

2. Because the insurance carrier failed to support its denial of payment for the services in question, the division finds that the requestor is entitled to reimbursement.

The fee guidelines for disputed services is found in 28 TAC §134.402. 28 TAC §134.402(f) states,

The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the Federal Register. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the Federal Register, or its successor. The following minimal modifications apply:

(1) Reimbursement for non-device intensive procedures shall be:

(A) The Medicare ASC facility reimbursement amount multiplied by 235 percent.

Sports Ortho Surgery Center did not request separate reimbursement for implantables.

A. Per Addendum AA, CPT code 29827 is a non-device intensive procedure.

The following formula was used to calculate the maximum allowable reimbursement (MAR):

The Medicare ASC reimbursement for code 29827 CY 2022 is \$2,998.15.

The Medicare ASC reimbursement is divided by 2 = \$1,499.08.

This number multiplied by the City Wage Index for Harlingen, Texas of 0.8319 = \$1,247.08.

Add these two together = \$2,746.16.

To determine the MAR, multiply the geographically adjusted Medicare ASC reimbursement by the DWC payment adjustment factor of 235% = \$6,453.48.

The division finds the MAR for CPT code 29827 is **\$6,453.48**.

B. Per Addendum AA, CPT code 29824 is a non-device intensive procedure. The following formula was used to calculate the MAR:

The Medicare ASC reimbursement for code 29824 CY 2022 is \$1,360.34.

The Medicare ASC reimbursement is divided by 2 = \$680.17.

This number multiplied by the City Wage Index for Harlingen, Texas of 0.8319 = \$565.83.

Add these two together = \$1,216.00.

To determine the MAR, multiply the geographically adjusted Medicare ASC reimbursement by the DWC payment adjustment factor of 235% = \$2,857.60.

This code is subject to multiple procedure rule discounting of 50% = \$1,428.80.

The division finds the MAR for CPT code 29824 is **\$1,428.80**.

The division finds the total allowable reimbursement for the ASC services rendered on August 3, 2022, is **\$7,882.28**. This amount is recommended.

### Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requester has established that additional reimbursement of \$7,882.28 is due.

### **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed services. It is ordered that Texas Mutual Insurance Company must remit to Sports Ortho Surgery Center \$7,882.28 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
March 31, 2023

Date

### **Your Right to Appeal**

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the instructions on the form. You can find the form at [www.tdi.texas.gov/forms/form20numeric.html](http://www.tdi.texas.gov/forms/form20numeric.html). DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, please call CompConnection at 1-800-252-7031, option 3 or email [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).

The party seeking review of the MFDR decision must deliver a copy of the request to all other

parties involved in the dispute at the same time the request is filed with DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** with any other required information listed in 28 TAC §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, opción 3 o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).