TDI Division of Workers' Compensation
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Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Mark Bailey, D.C.

Respondent Name
American Casualty Co. of Reading PA

MFDR Tracking Number
M4-23-2771-01

Carrier's Austin Representative
Box Number 57

DWC Date Received
June 29, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 29, 2022	Examination to Determine Maximum Medical Improvement and Impairment Rating – 99456-WP	$950.00	$950.00
	Examination to Determine the Extent of Injury – 99456-RE	$500.00	$0.00
	Examination to Determine if Disability was Related to Injury – 99456-RE	$250.00	$0.00
	Examination to Determine Ability to Return to Work – 99456-RE	$125.00	$0.00
	Work Status Report – 99080-73	$30.00	$0.00
	Total	$1,855.00	$950.00

Requestor's Position

"This report and bill were initially submitted to bill review on November 10, 2022. On February 22, 2023, the first collection call was to Sedgwick bill review. We were told … the bill had not yet been seen by the adjuster, and he's going to resend it again to bring it to the adjuster's attention to get it paid as soon as possible.

"We called again on March 16, 2023- they stated there was no bill on file. The resubmission was submitted immediately … On May 25, 2023, we followed up on the bill resubmission … On May 30, 2023 we received a call from … Sedgwick who stated they received the bill on December 7,

2022, escalated the bill on February 22, 2023 to the adjuster for failure to process the bill …

"We received an email reply on May 31, 2023 … stating that the claim was reported to Sedgwick an error, they no longer have access to the claim and to reach out to the claimant for the correct carrier information.

"On June 1, 2023 we called the claimant's employer to discover the correct carrier and claim number. We received email replies … who told us CCMSI was the correct carrier. We called CCMSI on June 1 and June 2, 2023 and sent an email to an adjuster … on June 2, 2023.

"On June 2, 2023 we were put in touch with adjuster … who said there was no bill on file and we needed to submit this was the proof of timely filing to get the bill processed. We submitted the bill with proof of timely filing and all other documentation on June 2, 2023.

"… Called the carrier CCMSI on June 9 to confirm that they received the bill resubmission we sent on June 2, 2023 which they confirmed

"… This bill was submitted timely and in good faith to the insurance company that was provided by the referring provider."

Amount in Dispute: $1,855.00

Respondent's Position

The Austin carrier representative for American Casualty Co. of Reading is Continental Casualty Co. The representative was notified of this medical fee dispute on July 5, 2023.

Per 28 Texas Administrative Code §133.307(d)(1), if the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the available information.

As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

Findings and Decision

Authority

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

Statutes and Rules

1. 28 Texas Administrative Code (TAC) §133.20 sets out the procedures for submitting a medical bill.

2. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.

3. 28 TAC §134.235 sets out the fee guidelines for examinations to determine extent of injury,

disability, and return to work.

4. 28 TAC §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.

5. 28 TAC §180.22 defines the roles and responsibilities of health care providers.

6. TLC §408.027 sets out the requirements for submission and review of medical bills.

7. TLC §408.0272 provides the exceptions for untimely submission of medical bills.

Denial Reasons

The insurance carrier denied the payment for the disputed services with the following claim adjustment codes:

- 29 – The time limit for filing has expired.
- 4271 – Per TxLabor Code Sec. 408.027, providers must submit bills to payors within 95 days of the date of service.

Issues

1. Is American Casualty Co. of Reading PA's denial based on timely filing supported?

2. Is Mark Bailey, D.C. entitled to reimbursement for the services in question?

Findings

1. Dr. Bailey is seeking reimbursement for an examination to determine maximum medical improvement, impairment rating, extent of injury, disability, and return to work with a work status report. CCMSI, on behalf of American Casualty Co. of Reading PA, denied payment based on timely filing.

   TLC §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) provides exceptions to this requirement, stating, "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:

   (1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with:
   (A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured;
   (B) a health maintenance organization that issues an evidence of coverage under

which the injured employee is a covered enrollee; or

(C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title …"

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."

The date of service in question is October 29, 2022. Explanation of benefits dated June 14, 2023, indicates that CCMSI received the bill on June 5, 2023. Documentation submitted to DWC supports that a bill for the services in question was submitted to Sedgwick on November 10, 2022, and March 16, 2023. Documentation also supports that Dr. Bailey was notified that the bill was submitted to the wrong workers' compensation insurance carrier on May 31, 2023. The greater weight of evidence indicates that a bill for the disputed services, with sufficient documentation required by TLC §408.0272(b)(1)(C) and 28 TAC §133.20(b) was sent to CCMSI on June 2, 2023. This is less than 95 days after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill.

DWC finds that, based on the documentation received, the insurance carrier's denial of payment is not supported.

2. The submitted documentation supports that Dr. Bailey performed an evaluation of maximum medical improvement (MMI). 28 TAC §134.250(3)(C) states that the maximum allowable reimbursement (MAR) for this examination is $350.00.

   Review of the submitted documentation finds that Dr. Bailey performed impairment rating evaluations of bilateral knees and upper extremities with range of motion testing, and the cervical spine using the DRE method. 28 TAC §134.250(4)(C)(ii) defines the fees for the calculation of an impairment rating for musculoskeletal body areas.

   The MAR for the evaluation of the first musculoskeletal body area performed with range of motion is $300.00. The MAR for the evaluation of a musculoskeletal body area determined using the DRE method is $150.00. The MAR for the evaluation of subsequent musculoskeletal body areas is $150.00 each. The total MAR for the determination of impairment rating is $600.00.

Dr. Bailey is also seeking reimbursement for examinations to determine the extent of the compensable injury, if disability is related to the injury, and the ability to return to work. Per 28 TAC §134.235, an examinations of this type are billed using CPT code 99456 with modifier "RE" only when the examination was requested by the DWC or the insurance carrier. No evidence was received to support that the examination in question was requested by the DWC or the insurance carrier.

Furthermore, 28 TAC §180.22(c) states, in relevant part, that the treating doctor shall, "except in the case of an emergency, approve or recommend all health care reasonably required that is to be rendered to the injured employee including, but not limited to, treatment or evaluation provided through referrals to … referral doctors …"

Documentation submitted to the DWC indicates that Dr. Bailey was referred by the treating doctor to provide a "Post DD Alternate MMI/IR," which did not include evaluations of extent of the compensable injury, if disability is related to the injury, and ability to return to work. The DWC concludes that Dr. Bailey is not entitled to reimbursement for these services.

Because Dr. Bailey was not ordered or referred to perform an evaluation of the ability to return to work, he is not entitled to reimbursement for the associated work status report.

The DWC finds that the total allowable reimbursement for the services in question is $950.00. 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.

The DWC finds the requestor has established that reimbursement of $950.00 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 American Casualty Co. of Reading PA must remit to Mark Bailey, D.C. $950.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		October 2, 2023
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 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. 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 three or email 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 tres o correo electronico CompConnection@tdi.texas.gov.