



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Jeffrey Bruce Gibberman, MD

**Respondent Name**

Argonaut Insurance Co

**MFDR Tracking Number**

M4-24-0391-01

**Carrier's Austin Representative**

Box Number 17

**DWC Date Received**

October 17, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
January 4, 2023	95886	\$400.00	\$0.00
January 4, 2023	95913	\$1500.00	\$0.00
January 4, 2023	95937	\$750.00	\$0.00
January 4, 2023	A4554	\$30.00	\$0.00
January 4, 2023	A4556	\$25.00	\$0.00
January 4, 2023	A4558	\$25.00	\$0.00
<b>Total</b>		<b>\$2730.00</b>	<b>\$0.00</b>

### Requestor's Position

"I am asking for a review of this denial for timely filing. We appealed to the insurance carrier with proof of timely filing attached. The appeal was denied stating original decision maintained. We utilize a clearinghouse for our worker compensation claim to get a confirmation page which is attached to this appeal. We are within a year of date of service therefore can submit a MFDR appeal."

**Amount in Dispute:** \$2730.00

### Respondent's Position

The Austin carrier representative for Argonaut Insurance Co is Downs Stanford. The representative was notified of this medical fee dispute on October 24, 2023.

Per 28 TAC §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.

**Response Submitted by:** N/A

## **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 \(TAC\) §133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 TAC §133.20](#) sets out requirements of medical bill submission.
3. [28 TAC §102.4](#) details the general rules for Non-Division Communication.
4. [Texas Labor Code 408.0272](#) sets out the workers compensation timely billing and exceptions guidelines.

### Denial Reasons

The insurance carrier denied the disputed services with the following claim adjustment codes.

- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 29 – The time limit for filing has expired.
- W3 – In accordance with TDI-DWC Rule 134.804, this bill has been identified as a request for reconsideration or appeal.
- 18 – Exact duplicate claim/service.
- Note: Need proof of timely filing for reprocessing.

### Issues

1. Did the requestor support timely submission of medical claim?

## Findings

1. The requestor is seeking reimbursement for professional medical services rendered in January 2023. The insurance carrier denied the service as not being submitted within 95 days. In support of their contention that the claim was submitted timely, the requestor submitted a "Bill Status" from ICompEDI dated September 18, 2023.

DWC Rule 28 TAC §102.4 (h) Unless the great weight of evidence indicates otherwise, written communications will be deemed to have been sent on:

- (1) the date received if sent by fax, personal delivery, or electronic transmission; or
- (2) the date postmarked if sent by mail through United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent must be the next previous day that is not a Sunday or legal holiday.

Review of the submitted document indicates on March 8, 2023 a claim for the injured worker was submitted by the requestor and was accepted by a Clearinghouse. This same report indicates something was accepted by Receiver from the payor.

This report does not indicate the workers compensation carrier responsible for the adjudication of date of service January 4, 2023 received the claim within 95 days.

Based on this review, DWC finds the provisions of 28 TAC §102.4 are not met.

Additionally, DWC Rule 28 TAC §133.20 (b) states in pertinent part,

(b) 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.

Texas Labor Code 408.0272. (b) states in pertinent part,

(b) Notwithstanding Section 408.0272, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.0272(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;

(2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.

DWC finds there is insufficient information to support the disputed medical bill was submitted by the requestor within 95 days or that an exception described above exists. No payment 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 not established that reimbursement is due.

## **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

_____	_____	January 9, 2024
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](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).