

**SOAH DOCKET NO. 453-03-3120.M4**  
**[TWCC MDR NO. M4-02-4675-01]**

<b>VISTA MEDICAL CENTER HOSPITAL,</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>Petitioner</b>	§	
	§	
<b>V.</b>	§	<b>OF</b>
	§	
<b>AMERICAN INTERSTATE</b>	§	
<b>INSURANCE COMPANY,</b>	§	
<b>Respondent</b>		<b>ADMINISTRATIVE HEARINGS</b>

**DECISION AND ORDER**

**I. DISCUSSION**

Vista Medical Center Hospital (Petitioner) appealed the Findings and Decision of the Texas Workers' Compensation Commission (Commission) acting through its Medical Review Division, denying additional reimbursement for an inpatient operative procedure provided to injured worker \_\_ (Claimant).

After considering the evidence and arguments of the parties, the Administrative Law Judge (ALJ) concludes that American Interstate Insurance Company (Respondent) is liable for reimbursing Petitioner the sum of \$3,221.56, plus applicable interest, for the inpatient operative procedure.

The hearing convened on October 22, 2003, with ALJ Howard S. Seitzman presiding. Petitioner appeared through its designated representative, Christina L. Gutel-Williams. Respondent appeared through its designated representative, Beverly L. Vaughn. \_\_\_ and \_\_\_ testified for Petitioner. The hearing concluded and the record closed that same day. Neither party objected to notice or jurisdiction.

1. Background

Claimant was admitted to Vista Medical Center Hospital in Pasadena, Texas, for a \_\_\_ inpatient operative procedure, a lumbar and lumbosacral fusion, arising from a \_\_\_, \_\_ workplace

injury. Claimant was discharged on \_\_\_\_\_. Petitioner billed Respondent \$141,343.99 for the operative procedure, inpatient stay and associated costs. Respondent reduced certain invoiced charges under Code G<sup>1</sup> and, excepting the surgical implants, paid the reduced bill at 75% under the Commission's Stop-Loss methodology (Stop-Loss). Respondent later separately paid Petitioner \$20,282.35 for the surgical implants.<sup>2</sup>

Petitioner contends (1) Code G is inapplicable to facilities; (2) the October 10, 2001 EOB is insufficient as it does not specifically identify the billed charges being disputed under Code G; (3) Respondent failed to timely reply Petitioner's requests for reconsideration; and (4) Respondent's June 5, 2003 letter of explanation of denied charges is insufficient both factually and legally.<sup>3</sup> Respondent contends (1) its application of Code G was correct because certain facility charges should be bundled with other costs and not billed as separate charges; and (2) Petitioner should be paid under a per diem rate rather than under Stop-Loss. Respondent also contends it overpaid Petitioner for the surgical and that the implant overpayment should be credited toward any other underpayment.

In this proceeding, Petitioner no longer seeks additional reimbursement for the surgical implants under CPT Code 278. As explained in the table below, Petitioner seeks \$3896.56 plus applicable interest for CPT Code 270, 272 and 300 charges reduced under Code G.

## 2. Unbundling

A Carrier may reduce an acute care hospital's (Facility) charges for unbundling. Prior SOAH decisions hold that a Carrier may audit and reduce a bill for unbundling.<sup>4</sup> The ALJ finds the reasoning of those decisions persuasive and adopts the rationale.

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<sup>1</sup> Code G is used when the Carrier is denying payment because the charge for the item was included in another billed procedure.

<sup>2</sup> Respondent now contends it overpaid Petitioner for the surgical implants.

<sup>3</sup> Because the Petitioner prevails on the facts, the issues as to the legal and factual sufficiency of the June 5, 2003 letter authored by Concentra Managed Care Services, Inc., are not addressed and it assumed for purposes of this Decision and Order that the letter is merely an explanation of Respondent's earlier denial of Petitioner's charges.

<sup>4</sup> SOAH Docket No. 453-01-1612.M4, TWCC Docket No. M4-01-0342-01 (September 6, 2001)(ALJ Cunningham); SOAH Docket No. 453-00-2092.M4 (April 24, 2001)(ALJ Cunningham).

### 3. Stop-Loss

The method for reimbursing Petitioner is established in the Acute Care Inpatient Hospital Fee Guideline (ACIHFG), effective August 1, 1997. ACIHFG is applicable for all reasonable and medically necessary medical and/or surgical inpatient services rendered in a Facility to injured workers under the Texas Workers' Compensation Act.<sup>5</sup> Generally, the Facility is reimbursed at a fixed per diem rate for inpatient surgical procedures performed in the Facility.<sup>6</sup> However, if the total audited charges for a hospital admission exceed \$40,000 (Minimum Stop-Loss Threshold), Stop-Loss is applied in lieu of the per diem rate.<sup>7</sup> Stop-Loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the Facility for unusually costly services rendered during treatment to an injured worker. Stop-Loss reimburses a Facility at 75% of the post-audit charges (Stop-Loss Reimbursement Factor). Surgical implants are excepted from Stop-Loss, and, when medically necessary, are reimbursed at cost plus 10%.<sup>8</sup>

### 4. Disputed Charges

The items in dispute are as follows:

CPT Code <sup>9</sup>	Amount Billed	Amount Paid	Gross Amount in Dispute	Net Amount in Dispute (75% of Gross)
270	\$14,159.82	\$8,424.54	\$2,927.10	\$2,195.33
272	\$16,715.82	\$10,891.86	\$2,193.32	\$1,644.99

<sup>5</sup> 28 TEX. ADMIN. CODE (TAC) § 134.401.

<sup>6</sup> 28 TAC §134.401(c).

<sup>7</sup> 28 TAC § 134.401(c)(6).

<sup>8</sup> 28 TAC § 134.401(c)(4)(A)(i).

<sup>9</sup> CPT 270 is for medical-surgical supplies; CPT 272 is for central sterile supplies and CPT 300 is for laboratory services.

300	\$894.00	\$614.25	\$75.00	\$56.25
Total	\$31,769.64	\$19,930.65	\$5,195.42	\$3,896.57

Respondent's Code G reductions, at the hearing, were premised upon a June 5, 2003 letter from Concentra Managed Care Services, Inc. Respondent disallowed the following charged under CPT Code 270: (1) a hospital pillow billed at \$18.00 as global to (should have been included in) the room charge; (2) an admission kit billed at \$117.60 as global to the admission charge; (3) an operating room video monitor billed at \$1836.00 as global to the operating room charge; (4) a Cardiac Monitor Datexane billed at \$55.00 as global to the operating room charge; and (5) a freight and delivery charge billed at \$900.00 as global to supplies/implants.

Under CPT Code 272, Respondent disallowed (1) a headlight billed at \$1693.32 as global to the operating room charge; and (2) an operating room video camera billed at \$500.00 as global to the operating room charge. Under CPT Code 300, five venipuncture procedures billed at \$15.00 each were disallowed as global to laboratory tests.<sup>10</sup>

## 5. Conclusions

The evidence establishes that Stop-Loss is the appropriate reimbursement mechanism for the charges other than the surgical implants. The audited charges, excluding surgical implant charges, exceeded \$40,000. The factual evidence adduced by the parties proves that none of the disputed charges should have been reduced as global.<sup>11</sup> The only item that should have been excluded is the \$900.00 freight and delivery charge because it was a cost associated only with the separately paid surgical implants.

Respondent contended it overpaid on the surgical implants and was entitled to an offset or credit if it owed Petitioner additional reimbursement. The Commission established a mechanism for Respondent to recover a refund for an overpayment to Petitioner. The time for Respondent to pursue

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<sup>10</sup> The venipuncture services spanned Claimant's inpatient stay.

<sup>11</sup> Addressing the three major items, the video monitor, video camera and headlight, although stored and used in the operating room, are not used by all surgeons or in all surgery cases. In some surgery cases, a surgeon may use the headlight but not the video camera or monitor.

that course expired. To allow Respondent a credit at this time, circumvents the established Commission procedure and the ALJ therefore does not allow Respondent a credit or offset.

Petitioner sought additional reimbursement of \$3,896.57. After deducting the \$900.00 freight and delivery charge attributable solely to the surgical implants, Petitioner is entitled to recover \$3,221.56<sup>12</sup> for CPT Codes 270, 272 and 300, plus applicable interest.

## II. FINDINGS OF FACT

1. \_\_\_ (Claimant) was admitted to Vista Medical Center Hospital in Pasadena, Texas, for a \_\_\_ inpatient operative procedure, a lumbar and lumbosacral fusion, arising from a \_\_\_ workplace injury. Claimant was discharged on \_\_\_.
2. Petitioner billed Respondent \$141,343.99 for the operative procedure and associated costs. Respondent reduced certain invoiced items under Code G contending the charge for the item was included in another billed procedure. Excepting the surgical implants, Respondent paid the reduced bill at 75% under the Commission's Stop-Loss Rule. Respondent later paid Petitioner \$20,282.35 for the surgical implants.
3. Petitioner no longer seeks additional reimbursement for the surgical implants.
4. Petitioner seeks \$3896.56 plus applicable interest for CPT Code 270, 272 and 300 charges reduced under Code G.
5. The Acute Care Inpatient Hospital Fee Guideline (ACIHFG), effective August 1, 1997, is applicable for all reasonable and medically necessary medical and/or surgical inpatient services rendered in an acute care hospital (Facility) to injured workers under the Texas Workers' Compensation Act.
6. Generally, the Facility is reimbursed at a fixed per diem rate for inpatient surgical procedures performed in the Facility. However, if the total audited charges for a hospital admission exceed \$40,000 (Minimum Stop-Loss Threshold), the stop-loss methodology (Stop-Loss) is applied in lieu of the per diem rate.
7. Stop-Loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the Facility for unusually costly services rendered during treatment to an injured worker.
8. Stop-Loss reimburses a Facility at 75% of the post-audit charges (Stop-Loss Reimbursement Factor).

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<sup>12</sup> The amount is calculated as follows: \$5,195.42 - \$900.00 x 0.75 = \$3221.56.

9. Surgical implants are excepted from Stop-Loss, and, when medically necessary, are reimbursed at cost plus 10%.
10. Under CPT Code 270, Respondent disallowed the following charges: (1) a hospital pillow billed at \$18.00 as global to (should have been included in) the room charge; (2) an admission kit billed at \$117.60 as global to the admission charge; (3) an operating room video monitor billed at \$1836.00 as global to the operating room charge; (4) a Cardiac Monitor Datexane billed at \$55.00 as global to the operating room charge; and (5) a freight and delivery billed at \$900.00 as global to supplies/implants.
11. Under CPT Code 272, Respondent disallowed the following charges: (1) a headlight billed at \$1693.32 as global to the operating room charge; and (2) an operating room video camera billed at \$500.00 as global to the operating room charge.
12. Under CPT Code 300, Respondent disallowed five venipuncture procedures billed at \$15.00 each as global to laboratory tests.
13. The audited charges, less the surgical, exceeded the Minimum Stop-Loss Threshold.
14. Stop-Loss is the appropriate reimbursement mechanism for the charges other than the surgical implants.
15. A Carrier may audit and reduce a bill for unbundling.
16. None of the disputed charges should have been reduced as global.
17. The \$900.00 freight and delivery charge should be excluded because it was a cost associated only with the separately paid surgical implants.
18. The Texas Workers' Compensation Commission (Commission) established a mechanism for Respondent to recover a refund for an overpayment to Petitioner.
19. The time for Respondent to pursue a refund has expired.
20. Respondent is not entitled to a credit or offset for any overpayment of the surgical implants because it would circumvent the established Commission procedure.
21. Respondent denied Petitioner's requests for additional reimbursement for an inpatient operative procedure provided to Claimant.
22. The Commission, acting through its Medical Review Division, denied Petitioner additional reimbursement for an inpatient operative procedure provided to Claimant.
23. Petitioner then timely requested a hearing before the State Office of Administrative Hearings (SOAH). The hearing convened on October 22, 2003, with SOAH Administrative Law Judge Howard S. Seitzman presiding. Petitioner appeared through its designated representative, Christina L. Gutel-Williams. Respondent appeared through its designated

representative, Beverly L. Vaughn. \_\_\_ and \_\_\_ testified for Petitioner. The hearing concluded and the record closed that same day.

### III. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to the Texas Workers' Compensation Act, specifically TEX. LABOR CODE ANN. §413.031(k), and TEX. GOV' T CODE ANN. ch. 2003.
2. The hearing was conducted pursuant to the Administrative Procedure Act, TEX. GOV' T CODE ANN. ch. 2001 and 28 TEX. ADMIN. CODE ch. 148.
3. The request for a hearing was timely made pursuant to 28 TEX. ADMIN. CODE § 148.3.
4. Adequate and timely notice of the hearing was provided according to TEX. GOV' T CODE ANN. §§ 2001.051 and 2001.052.
5. Petitioner has the burden of proof in this matter. 28 TEX. ADMIN. CODE §§ 148.21(h) and 133.308(w).
6. Stop-Loss is the appropriate reimbursement mechanism for the charges other than the surgical implants. 28 TEX. ADMIN. CODE §134.401(c)
7. Respondent is not entitled to an offset or credit for overpayment when its deadline to pursue a refund has expired.
8. Petitioner established, by a preponderance of the evidence, that Respondent failed to properly reimburse charges associated with a \_\_\_ inpatient operative procedure for Claimant and is liable for reimbursing Petitioner \$3,221.56 for CPT Codes 270, 272 and 300, plus applicable interest.

### ORDER

**THEREFORE IT IS ORDERED** that American Interstate Insurance Company reimburse Vista Medical Center Hospital the sum of \$3,221.56 plus applicable interest for charges associated with a \_\_\_, inpatient operative procedure for\_\_\_.

**SIGNED December 18, 2003.**

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**HOWARD S. SEITZMAN  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**