

<b>RIO GRANDE REGIONAL HOSPITAL,</b>	§	<b>BEFORE THE STATE OFFICE</b>
<b>Petitioner</b>	§	
	§	
<b>V.</b>	§	<b>OF</b>
	§	
<b>ZURICH AMERICAN INSURANCE</b>	§	
<b>COMPANY,</b>	§	<b>ADMINISTRATIVE HEARINGS</b>
<b>Respondent</b>		

**DECISION AND ORDER**

Rio Grande Regional Hospital (Provider) requested a hearing on a decision by the Medical Review Division (MRD) of the Texas Department of Insurance, Division of Workers' Compensation (Division)<sup>1</sup> denying additional reimbursement for a hospital stay provided to Claimant, an injured worker. Provider argued that reimbursement for this admission should be based on the Stop-Loss Exception to the per diem reimbursement methodology contained in the 1997 Acute Care Inpatient Hospital Fee Guideline (1997 ACIHFG).<sup>2</sup> The Administrative Law Judge (ALJ) finds the Stop-Loss Exception should not be followed in this proceeding, because Provider failed to prove its audited charges were more than \$40,000. Accordingly, Zurich American Insurance Company (Carrier) is not ordered to pay any additional reimbursement.

**I. PROCEDURAL HISTORY, NOTICE AND JURISDICTION**

The MRD issued its decision on June 14, 2005. Provider filed a timely and sufficient request for hearing. Notice of the hearing was appropriately issued to the parties.

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<sup>1</sup> Effective September 1, 2005, the legislature dissolved the Texas Workers' Compensation Commission (Commission) and created the Division of Workers' Compensation within the Texas Department of Insurance. Act of June 1, 2005, 79th Leg., R.S., ch. 265, § 8.001, 2005 Tex. Gen. Laws 469, 607. This Decision and Order refers to the Commission and its successor collectively as the Division.

<sup>2</sup> The 1997 ACIHFG established a general reimbursement scheme for all inpatient services provided by an acute care hospital for medical and/or surgical admissions using a service-related standard per diem amount. Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the Stop-Loss Threshold as described in paragraph (6) of 28 TEX. ADMIN. CODE (TAC) § 134.401(c). This independent reimbursement mechanism, the Stop-Loss Method or Stop-Loss Methodology, is sometimes referred to as the Stop-Loss Exception or the Stop-Loss Rule.

The hearing convened and concluded on May 13, 2008.<sup>3</sup> The record closed on the same day.

## **II. DISCUSSION**

### **A. Factual Overview**

The basic facts were uncontested. Claimant sustained a compensable injury and was admitted to Provider, where Claimant underwent treatment. After Claimant was discharged from the hospital, Provider submitted a bill to Carrier in the amount of \$44,107.18 based on Provider's usual and customary charges for the inpatient stay and surgical procedure. To date, Carrier has paid \$12,669.00.

### **B. Issues**

When a hospital's total audited bill is greater than \$40,000, the Division's Stop-Loss Exception applies, and the hospital is reimbursed at 75% of its total audited bill. When the bill is not over \$40,000, the hospital is reimbursed at the pre-diem rate. In this instance, Provider billed Carrier \$44,107.18, including \$12,766.00 for implants. Carrier denied payment of \$10,159.00 of the implant charges alleging they were not documented and were unsupported by the operative report. MRD agreed with Carrier's allegation, so Provider had the burden of proof in this proceeding.

During this proceeding, Provider failed to offer evidence supporting its charges for implantables, thus the total charges are less than \$40,000 and the per-diem rate is applicable. The per diem is nine days of hospitalization at \$1,118.00 per day or \$10,062.00. Carrier also paid \$2,607.00 for implantables for a total of \$12,669.00. The ALJ finds Carrier's payment is appropriate. In summary, the parties' positions and ALJ's findings are as follows:

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<sup>3</sup> Beginning in 2003, the Division began referring a significant number of ACIHFG cases to SOAH. Between 2003 and August 31, 2005, approximately 885 ACIHFG cases were referred to SOAH for contested case hearings on issues including the Stop-Loss Exception, audits, and the reimbursement of implantables. In order to efficiently and economically manage this growing number of cases, SOAH in late 2004 and early 2005 began to join the cases into a Stop-Loss Docket, and the cases were abated. By the close of the 2005 regular legislative session, SOAH realized a finite, but still unknown, number of Stop-Loss cases would be referred to SOAH by the Division through August 31, 2005.

	<b>MRD</b>	<b>Provider</b>	<b>Carrier</b>	<b>ALJs</b>
<b>Charges</b>	\$44,107.18	\$44,107.18	\$44,107.18	<b>\$44,107.18</b>
<b>Audited charges</b>	\$33,948.18	\$44,107.18	\$33,948.18	\$33,948.18
<b>Reimbursement Methodology</b>	per diem <sup>4</sup>	stop loss	per diem	<b>per diem</b>
<b>Reimbursement Amount</b>	\$12,669.00	\$33,080.39	\$12,669.00	<b>\$12,669.00</b>
<b>Less Payment</b>	(\$12,669.00)	(\$12,669.00)	(\$12,669.00)	<b>(\$12,669.00)</b>
<b>Balance Due Provider</b>	\$0	\$20,411.39	\$0	<b>\$0</b>

### III. FINDINGS OF FACT

1. Claimant sustained a compensable injury in the course and scope of employment; the employer had coverage with Zurich American Insurance Company (Carrier).
2. Rio Grande Regional Hospital (Provider) provided medical treatment to Claimant for the compensable injury.
3. Provider submitted itemized billing totaling \$44,107.18 for services provided to Claimant.
4. The \$44,107.18 billed included charges of \$12,766.00 for implantables.
5. Carrier issued payments of \$12,669.00 to Provider for the services in question.
6. Carrier denied further reimbursement to Provider.
7. Provider requested Dispute Resolution Services from the Medical Review Division (MRD) of the Texas Workers' Compensation Commission (Commission).
8. Effective September 1, 2005, the legislature dissolved the Commission and created the Division of Workers' Compensation within the Texas Department of Insurance. The Commission and its successor are collectively referred to as the Division.
9. MRD issued its Findings and Decision holding that no additional amount was owed.
10. Provider timely filed a request for a contested case hearing on the MRD's decision.
11. All parties were provided not less than 10-days notice of hearing and of their rights under the applicable rules and statutes.

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<sup>4</sup> MRD determined that the Stop-Loss Exception did not apply since the admission did not involve "unusually extensive services." MRD calculated reimbursement based on the per diem methodology.

12. On May 13, 2008, Administrative Law Judge Tommy L. Broyles convened a hearing on the merits at the hearing facilities of the State Office of Administrative Hearings (SOAH) in Austin, Texas. Carrier and Provider were present and represented by counsel. The Division did not participate in the hearing. The hearing concluded and the record closed that same day.
13. Provider's total audited charges under § 134.401(c)(6)(A)(v) are \$33,948.18, which allows Provider to obtain reimbursement under the per-diem methodology.
14. Under the per-diem methodology, Provider is entitled to total reimbursement of \$12,669.00 after deduction of Carrier's prior payment of \$12,669.00, Provider is not entitled to any further reimbursement.

#### **IV. CONCLUSIONS OF LAW**

1. SOAH has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. §§ 402.073 and 413.031(k) and TEX. GOV'T CODE ANN. ch. 2003.
2. Provider timely requested a hearing, as specified in 28 TEX. ADMIN. CODE (TAC) § 148.3.
3. Proper and timely notice of the hearing was provided to the parties in accordance with TEX. GOV'T CODE ANN. §§ 2001.051 and 2001.052.
4. Provider had the burden of proof in this proceeding pursuant to 28 TAC § 148.21(h) and (i).
5. Pursuant to 28 TAC § 133.307(j)(2), any defense or reason for denial of a claim not asserted by a carrier before a request for medical dispute resolution may not be considered at the hearing before SOAH, whether or not it arises out of an audit.
6. Provider establishes eligibility for applying the Stop-Loss Methodology under 28 TAC § 134.401(c)(4) when total eligible charges exceed the Stop-Loss Threshold of \$40,000.
7. The total audited charges in this case are \$33,948.18; therefore, the Stop-Loss Methodology does not apply.
8. The per-diem rate is applicable; therefore, reimbursement is at \$1,118 per day plus implantables.
9. Applying the per diem rate, Provider is entitled to total reimbursement of \$12,669.00.
10. As specified in the above Findings of Fact, Carrier has already reimbursed Provider \$12,669.00.
11. Based on the foregoing findings of fact and conclusions of law, Carrier does not owe any additional reimbursement.

**ORDER**

It is hereby **ORDERED** that Rio Grande Regional Hospital's request for additional reimbursement from Zurich American Insurance Company is denied.

**SIGNED June 30, 2008.**

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**TOMMY L. BROYLES  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**