

SOAH DOCKET NO. 454-15-3740.M4-NP
MDR NO. _____

PHYSICIANS CENTER, PA,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
v.	§	OF
	§	
INDEMNITY INSURANCE COMPANY	§	
OF NORTH AMERICA,	§	ADMINISTRATIVE HEARINGS
Respondent	§	

DECISION AND ORDER

This case involves services rendered by Physicians Center, PA (Physicians) to an injured employee covered by the workers' compensation insurance system. The Texas Department of Insurance's Division of Workers' Compensation (Division) conducted medical fee dispute resolution (MFDR) and declined to order Indemnity Insurance Company of North America (Carrier) to reimburse Physicians in the amount of \$250. The Administrative Law Judge (ALJ) concludes that Physicians is not entitled to reimbursement.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

There are no issues of notice or jurisdiction in this proceeding. Therefore, the ALJ addresses these matters in the findings of fact and conclusions of law without further discussion here.

Physicians filed a request for medical fee dispute resolution with the Division. On February 23, 2015, the Division issued its Medical Fee Dispute Resolution Decision (MFDR Decision). On April 29, 2015, Physicians requested a hearing at the State Office of Administrative Hearings (SOAH) to contest the Division's determination. On May 13, 2015, the Division issued a Notice of Hearing.

On July 29, 2015, ALJ Beth Bierman convened a hearing on the merits at SOAH. Carrier appeared through attorney Scot Schwartzberg. Physicians appeared and was represented by billing manager Monica Griffiths. The evidentiary record closed at the conclusion of the hearing that day.

II. DISCUSSION

A. Applicable Law and Parties' Arguments

This case involves a very limited issue pertaining to the information a provider is required to submit to constitute a complete professional medical bill for services provided under Texas workers' compensation insurance. The rule at issue, 28 Texas Administrative Code § 133.10(f)(1)(U),¹ provides in relevant part:

- (f) All information submitted on required paper billing forms must be legible and completed in accordance with this section. The parenthetical information following each term in this section refers to the applicable paper medical billing form and the field number corresponding to the medical billing form.
 - (1) The following data content or data elements are required for a complete professional or noninstitutional medical bill related to Texas workers' compensation health care:
 - (U) rendering provider's state license number (CMS-1500/field 24j, shaded portion) is required when the rendering provider is not the billing provider listed in CMS-1500/field 33; the billing provider shall enter the 'OB' qualifier and the license type, license number, and jurisdiction code (for example, 'MDF1234TX')[.] (eff. August 1, 2011).

Carrier contends that Physicians failed to include the provider's OB qualifier when it submitted its bill for services. Physicians argues that Rule § 133.10(f)(1)(U) was not in effect when the services were rendered or the bill submitted for payment. Portions of Rule § 133.10(f)(1)(U) were amended effective April 1, 2014. However, the subsection quoted above was effective August 1, 2011, and was not modified by the subsequent amendments to the rule.

If the carrier still denies payment after the provider requests reconsideration, the provider may request MFDR.² An appeal of a determination by the Division regarding a medical fee dispute is heard by a SOAH ALJ.

As the party requesting a hearing at SOAH, Physicians has the burden of proof to show by a preponderance of the evidence that it is entitled to reimbursement. The hearing before SOAH is a *de novo* review of the issued involved.

¹ Subsequent references in the text to the Division's rules will be to "Rule § ____."

² 28 Tex. Admin. Code § 133.240 (j).

B. Evidence

Neither party presented testimony in this case. Carrier submitted documentation consisting of: notification of the medical fee dispute, dated October 8, 2014; its initial response to the medical fee dispute, dated October 24, 2015; its supplemental response to the medical fee dispute, dated November 17, 2014; the MFDR Findings and Decision, dated February 23, 2015; the Division Notice of Benefit Review Conference to Appeal Medical Fee Dispute Decision, dated March 16, 2015; and the Division Notice of SOAH Hearing, dated May 13, 2015. (Exhibits B through G).³ Physicians submitted a copy of the Texas Register discussion of the April 1, 2014 amendments to the rule. (Exhibit 1). The facts were undisputed.

On January 23, 2014, Physicians billed Carrier for medical services consisting of an office visit and documentation performed on December 23, 2013.⁴ Physicians sought \$250 in payment. On February 3, 2014, Carrier issued an explanation of benefits (EOB) to Physicians using the following codes⁵ for nonpayment:

16 Claim/Service lacks information or has submission/billing error(s) which is needed for adjudication.

18 Duplicate claim/service.⁶

On October 1, 2014, Physicians filed a MFDR Request with the Division.⁷ On November 17, 2014, Carrier filed with the Division a response to the request by Physicians, stating that the bill was denied because the provider's OB qualifier was not submitted, and citing Rule § 133.10(f)(1)(U).⁸

On February 23, 2015, the Division issued its MFDR Findings and conclusions. The Division found that Physicians was not entitled to reimbursement because it failed to submit a

³ Carrier marked its Exhibit List as Exhibit A.

⁴ Carrier Ex. B at 2; Carrier Ex. C at 2. Physicians billed the services under Current Procedural Terminology (CPT) Codes 99213 and 99080. It is unclear from the record whether the February 25, 2014 date of service was a duplicative request for payment. Carrier Ex. B at 2. In any event, the amount in dispute remains the same.

⁵ The Division directs the use of the ANSI adjustment code reasons. The complete ANSI Claim Adjustment Reason Code set is available on the Washington Publishing Company Code website at: www.wpc-edi.com. The Division also directs participants there from its own internal web link at: <http://www.tdi.texas.gov/wc/hcprovider/comconnection.html>.

⁶ Carrier Ex. C at 3-6.

⁷ Carrier Ex. B.

⁸ Carrier Ex. D at 1.

complete bill by failing to include the provider's 0B qualifier, as required by Rule § 133.10(1)(f)(U).

C. ALJ's Analysis

Physicians failed to meet the burden of proof to show that it was entitled to reimbursement. Its only argument was that Rule § 133.10(f)(1)(U)—containing the requirement that the provider include the provider's 0B qualifier—was not effective when the services were rendered or the bill submitted for payment. This, however, is incorrect. The applicable subsection of the rule was in effect prior to both the service being rendering and the bill being submitted for payment. The ALJ finds the MFDR decision was correct; Physicians failed to provide the required information with its bill. Carrier is not ordered to reimburse Physicians the amount of \$250.00 for the services in dispute in this case. In support of this determination, the ALJ makes the following findings of fact and conclusions of law.

III. FINDINGS OF FACT

1. On December 23, 2013, Physicians Center, PA (Physicians) performed medical services consisting of an office visit for an injured worker (claimant).
2. Indemnity Insurance Company of North America (Carrier) was the responsible workers' compensation insurer for the claimant.
3. On January 23, 2014, Physicians billed Carrier \$250 for the services.
4. Physicians' bill did not include the provider's 0B qualifier when it submitted its bill for services.
5. On February 3, 2014, Carrier issued an explanation of benefits (EOB) to Physicians, with ANSI nonpayment codes, denying payment because the bill lacked the 0B qualifier.
6. Physicians timely filed a request for medical fee dispute resolution (MFDR) with the Texas Department of Insurance, Division of Workers' Compensation (Division).
7. On February 23, 2015, the Division issued its MFDR Findings and Decision (MFDR Decision), ordering that Carrier was not required to reimburse Physicians the amount in dispute.
8. Physicians timely requested a hearing before the State Office of Administrative Hearings (SOAH) to contest the MFDR Decision.

9. A Notice of Hearing informed the parties of the date, time, and location of the hearing; the matters to be considered; the legal authority under which the hearing would be held; and the statutory provisions applicable to the matters to be considered.
10. On July 29, 2015, 2015, a hearing convened before Administrative Law Judge Beth Bierman at SOAH's facilities in Austin, Texas. Physicians was represented by billing manager Monica Griffiths. Carrier was represented by attorney Scot Schwartzberg. The record closed that day.

IV. CONCLUSIONS OF LAW

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order. Tex. Lab. Code § 413.031; Tex. Gov't Code ch. 2003.
2. Adequate and timely notice of the hearing was provided. Tex. Gov't Code §§ 2001.051, 2001.052.
3. The provider is required to provide on its professional bill for medical services the rendering provider's state license number (CMS-1500/field 24j, shaded portion) when the rendering provider is not the billing provider listed in CMS-1500/field 33. In addition, the billing provider shall enter the '0B' qualifier and the license type, license number, and jurisdiction code (for example, 'MDF1234TX'). 28 Tex. Admin. Code § 133.10(f)(1)(U) (eff. August 1, 2011).
4. Physicians had the burden of proving by a preponderance of the evidence that its bill was complete. 1 Tex. Admin. Code § 155.427.
5. Physicians failed to prove that its bill contained the information required by 28 Texas Administrative Code § 133.10(f)(1)(U) (eff. August 1, 2011), and therefore, failed to prove that its bill was complete.
6. Because Physicians failed to carry its burden of proof, the ALJ finds that Physicians has not shown itself entitled to relief from the MFDR Decision; therefore, Carrier is not required to reimburse Physicians in the amount of \$250.

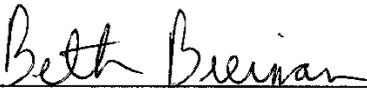
ORDER

IT IS ORDERED that Carrier is not required to reimburse Physicians the requested \$250.

NON-PREVAILING PARTY DETERMINATION

Texas Labor Code § 413.0312(g) and 28 Texas Administrative Code § 133.307(h) require the non-prevailing party to reimburse the Division for the cost of services provided by SOAH. Texas Labor Code § 413.0312(i) requires SOAH to identify the non-prevailing party and any costs for services provided by SOAH in its final decision. For purposes of Texas Labor Code § 413.0312, Physicians is the non-prevailing party. The costs associated with this decision are set forth in Attachment A to this Decision and Order and are incorporated herein for all purposes.

SIGNED September 25, 2015.



BETH BIERMAN
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS