MEDICAL CONTESTED CASE HEARING NO. 10081
M4-09-A298-01

## DECISION AND ORDER

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and Rules of the Division of Workers' Compensation adopted thereunder.

## ISSUES

A contested case hearing was held on November 24, 2009, to decide the following issue:

1. Whether the preponderance of the evidence is contrary to the decision of Medical Review that Petitioner/Subclaimant is not entitled to additional reimbursement in the amount of $604.14 plus applicable accrued interest for dates of service of July 23, 2008, July 29, 2008, August 1, 2008, and August 12, 2008?

## PARTIES PRESENT

Claimant did not appear and his appearance was waived by the parties. Petitioner/Subclaimant appeared by and was represented by DM, attorney. Respondent/Carrier appeared and was represented by PP, attorney.

## BACKGROUND INFORMATION

No testimony was offered at the November 24, 2009, CCH. Both parties presented documentary evidence in the form of exhibits and closing arguments.

The following medical bills and dates of service are in dispute:

| A. Date of Service | B. Amount Billed | C. Health Care Provider |
|---|---|---|
| July 23, 2008 | $207.66 | SN, LCSW |
| July 23, 2008 | 15.00 | EP, D.C. |
| July 23, 2008 | 127.32 | EP, D.C. |
| July 29, 2008 | 84.72 | EP, D.C. |
| August 1, 2008 | 84.72 | EP, D.C. |
| August 12, 2008 | 84.72 | EP, D.C. |
| Total | $604.14 | |

The medical bills in dispute were submitted to the Carrier on or about September 4, 2008, and on September 18, 2008, Carrier's "Managed Care Service Center" notified Subclaimant

1. "The following information is needed before we can process payment for the attached bills:

Other - Provider Billing and Rendering [National Provider Identifier] NPI Number Required:"

(Date of service of July 23, 2008, in the amount of $207.66);
(Date of service of July 23, 2008, in the amount of $15.00);
(Date of service of July 23, 2008, in the amount of $127.32);
(Date of service of July 29, 2009, in the amount of $84.72);
(Date of service of August 1, 2008, in the amount of $84.72);
(Date of service of August 12, 2008, in the amount of $84.72).

Pursuant to Rule 133.20(c), the proper return of an incomplete medical bill in accordance with this section fulfills the insurance carrier's obligations with regard to the incomplete bill. Pursuant to Rule 133.20(h), not later than the 15th day after receipt of a request for additional medical documentation, a health care provider shall submit to the insurance carrier: (1) any requested additional medical documentation related to the charges for health care rendered; or (2) a notice the health care provider does not possess requested medical documentation.

On May 21, 2009, (Healthcare Provider), submitted a "Request for Reconsideration-Dates of Service 7-23-08 through 8-12-08." In its request for reconsideration Subclaimant stated in part,

> The carrier failed to provide the original response EOB's for the outstanding dates of service of 7/23/08, 7/29/08, 8/01/08, and 8/12/08. The carrier did send back a cover sheet along with copies of some HCFA's (Health Insurance Claim Forms) asking for the NPI number in order to process. However, the NPI number (NPI #) is provided on each and every HCFA billed in the REQUIRED box of 33a. Under Dr. B's referral, the date of service 7/23/08 CP code 90801 was performed by SN (NPI #).

Rule 133.250(a) "Reconsideration for Payment of Medical Bills", provides that if the health care provider is dissatisfied with the insurance carrier's final action on a medical bill, the health care provider may request that the insurance carrier reconsider its action. Pursuant to Rule 133.2 (4) Final action on a medical bill means (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with Rule 134.1 of this title (relating to Medical Reimbursement); and/or (B) denying a charge on the medical bill.

In the bills submitted for reconsideration of the disputed dates of service, no change was made with respect to the requested NPI numbers. In the bills submitted for reconsideration, Block or Title Number 32a which requires the NPI number for the Service Facility Location Information was still omitted, and this NPI number is distinct from the NPI number required in Block or Title Number 33a.

Admitted into evidence as Carrier Exhibit K is the most current **NUCC (National Uniform Claim Committee) 1500 Health Insurance Claim Form Reference Instruction Manual.** As noted in the manual, the ultimate goal of the NUCC is to develop standardized national instructions. At page 51 of the manual are instructions with regard to Title 32a. The instructions clearly state that in Title 32a the NPI number of the service facility location is required, and the

NPI number refers to the HIPAA National Provider Identifier number. This is the required NPI number for the location where the services were rendered. At page 53 of the instruction manual Title 33a is addressed. The instructions require that the NPI number of the billing provider be entered here. Title 33 identifies the provider that is requesting to be paid for the services rendered.

On July 13, 2009, Subclaimant requested medical fee dispute resolution. On August 10, 2009, a Medical Fee Dispute Resolution (MFDR) auditor determined that the dispute was not filed in the form and manner prescribed under 28 TAC Section 133.307(d)(2)(B), and that Subclaimant was not entitled to reimbursement for the services involved in this dispute. 28 TAC Section 133.307(d)(2)(B) pertains to Carrier "Responses" to a request for MDR and provides that "The response shall address only those denial reasons presented to the requestor prior to the date the request for MDR was filed with the Division and the other party. " The MDRO's ultimate decision finding no entitlement to reimbursement for the services involved in this dispute is correct, but the underlying rationale is flawed as it relates to the relevant statutory provisions and Division rules.

Subclaimant appealed the decision of the MFDR. At the November 24, 2009, CCH, Carrier submitted as its Exhibit J, a May 14, 2008, memorandum addressed to Workers' Compensation System Participants from MZ, Executive Deputy Commissioner for Policy and Research. The subject address is the "National Provider Identification Number Requirement."

The memo reads as follows (in part):

> The purpose of the National Provider Identifier (NPI) is to uniquely identify a health care provider in standard transactions, such as medical bills. NPIs may also be used to identify health care providers for prescriptions, practice management systems, patient medical record systems, program integrity files, and in many other ways. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires that health plans, health care clearinghouses, and health care providers performing electronic transactions use NPIs. This single identification number is designed to replace the various health care provider identification numbers previously used in the health care industry.
>
> On and after May 23, 2008, the Centers for Medicare & Medicaid Services (CMS) require the use of an NPI for both paper and electronic medical bills in the Medicare system. Texas Labor Code §413.011(a) and 28 Texas Administrative Code (TAC) §§134.203, 134.402, 134.403 and 134.404 require the use of Medicare's coding, billing and payment policies for medical bills in the Texas workers' compensation system. In addition, the use of the NPI in the workers' compensation system reduces the need for the various entities involved in standard health care transactions to develop or use workers' compensation specific automation systems.
>
> **What is the workers' compensation NPI requirement?**
>
> Beginning on May 23, 2008, all health care providers <u>eligible</u> for an NPI must include their NPI number on workers' compensation medical bills submitted on

> paper or electronically. This requirement applies to all medical bills submitted on or after May 23, 2008, regardless of the date of service.
> **Who is eligible for an NPI?**
>
> In general, a health care provider, a group of health care providers, or a health care facility that furnishes medical services in the normal course of their business is eligible for an NPI number. Individual health care providers eligible for an NPI include physicians, dentists, psychologists, pharmacists, nurses, chiropractors and many other health care practitioners and professionals. Other health care providers eligible for an NPI include hospitals, nursing homes, ambulatory care facilities, durable medical equipment suppliers, clinical laboratories, pharmacies, and group practices.

Rule 134.202(b) provides that for coding, billing, reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section.

Section 408.027(a) of the Texas Workers' Compensation Act provides:

> A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the day 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 providers' right to reimbursement for that claim for payment.

Rule 133.2 (2) defines "Complete medical bill" as a medical bill that contains all required fields as set forth in the billing instructions for the appropriate form specified in Rule 133.10 of this chapter (relating to Required Billing Forms/Formats), or as specified for electronic medical bills in Rule 133.500 of this chapter (relating to Electronic Formats for Electronic Medical Bill Processing).

Subclaimant failed to provide the NPI codes as requested. The bills for the disputed dates of service are July 23, 2008; July 29, 2008, August 1, 2008, and August 12, 2008. Subclaimant did not submit a claim for payment to Carrier not later than the 95th day after the day on which the health care services were provided, since it never submitted a complete medical bill for each date of service in question.

There is no provision under the Act or Rules allowing resubmission of an improperly submitted bill after the time period provided for in Section 408.027(a). Because the bills were not properly submitted before the expiration of the 95-day period, Subclaimant has forfeited the right to reimbursement for those claims for payment.

Even though all the evidence presented was not discussed, it was considered. The Findings of Face and Conclusions of Law are based on all of the evidence presented.

## FINDINGS OF FACT

1. The parties stipulated to the following facts:

   A. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.

   B. On _____, Claimant was the employee of (Employer) and sustained a compensable injury.

   C. On July 13, 2009, MDR was stamped received at the Division.

   D. On July 17, 2009, Provider received its first notice of EOB audit (alternate DWC-62 form).

2. Carrier delivered to Subclaimant a single document stating the true corporate name of Petitioner/Carrier, and the name and address of Petitioner/Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.

3. On September 4, 2008, Subclaimant submitted a bill for $207.66 for date of service of July 23, 2008, to Carrier and omitted a required NPI number for Title 32a. for "Service Facility Location Information."

4. On September 4, 2008, Subclaimant submitted a bill for $15.00 for date of service of July 23, 2008, to Carrier and omitted a required NPI number for Title 32a for "Service Facility Location Information."

5. On September 4, 2008, Subclaimant submitted a bill for $127.32 for date of service of July 23, 2008, to Carrier and omitted a required NPI number for Title 32a for "Service Facility Location Information."

6. On September 4, 2008, Subclaimant submitted a bill for $84.72 for date of service of August 1, 2008, to Carrier and omitted a required NPI number for Title 32a for "Service Facility Location Information."

7. On September 4, 2008, Subclaimant submitted a bill for $84.72 for date of service of August 12, 2008, to Carrier and omitted a required NPI number for Title 32a for "Service Facility Location Information."

8. On September 18, 2008, Carrier requested that Subclaimant provide the required NPI number for Title 32a for "Service Facility Location Information" for the six dates of service before payment for the bills could be processed.

9. Subclaimant did not comply with Rule 133.20 (h).

10. On May 21, 2009, Subclaimant submitted a "Request for Reconsideration – Dates of Service 7-23-08 through 8-12-08" to Carrier and in its request acknowledged that Carrier "did send back a cover sheet along with copies of some HCFA's asking for the NPI

number in order to process. However, the NPI number (NPI #) is provided on each and every HCFA billed in the REQUIRED box of 33a."

11. Subclaimant's Request for Reconsideration was not appropriate in the instant case as there had been no "Final action" pursuant to Rule 133.2(4).

12. Subclaimant had 15 days after receipt of the September 18, 2008, Carrier request for additional medical documentation to provide the required NPI numbers or it had 95 days after the dates of service to submit as a new bill an incomplete bill that had since been corrected after the incomplete bill was returned by the insurance carrier, and in the instant case, Subclaimant did neither.

13. On July 13, 2009, Subclaimant requested Medical Dispute Resolution.

14. On August 10, 2009, it was determined that Subclaimant was not entitled to reimbursement for the services involved in this dispute.

15. In the August 10, 2009, MDR decision, the Division concluded that the dispute was not filed in the form and manner prescribed under TAC Section 133.307(d)(2)(B), and as a result the amount ordered is $0.00.

16. In the instant case, Subclaimant failed to properly submit medical bills for the requested dates of service before the expiration of the 95-day period.

## CONCLUSIONS OF LAW

1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.

2. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.

2. The preponderance of the evidence is not contrary to the decision of Medical Review that Subclaimant is not entitled to additional reimbursement in the amount of $604.14 plus applicable accrued interest for dates of service of July 23, 2008, July 29, 2008, August 1, 2008, and August 12, 2008.

## DECISION

Carrier is not liable to Subclaimant for $604.14 for services rendered to Claimant on July 23, 2008, July 29, 2008, August 1, 2008, and August 12, 2008.

## ORDER

Carrier is not liable for the benefits that were at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **NORTHERN INSURANCE COMPANY OF NEW YORK,** and the name and address of its registered agent for service of process is:

**LEO F. MALO**
**12222 MERIT DR. SUITE 700**
**DALLAS, TX 75251**

Signed this 30th day of November, 2009

Cheryl Dean
Hearing Officer