



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Trinity Medical Center

**Respondent Name**

Texas Mutual Insurance Company

**MFDR Tracking Number**

M4-04-A441-02

**Carrier's Austin Representative**

Box Number 54

**DWC Date Received**

June 28, 2004

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
August 26, 2003 - September 2, 2003	Inpatient Hospital Services	\$84,128.71	\$0.00
<b>Total</b>		\$84,128.71	\$0.00

### Requestor's Position

**Requestor's Position Statement:** "CARRIER DENIED THE PROVIDERS APPEAL FOR STOPLOSS CONSIDERATION BY INDICATING THAT THE CHARGES INCURRED DID NOT MEET THE STOPLOSS CRITERIA SET FORTH IN 134.401(6). PROVIDER IS IS[sic] SEEKING RELIEF FROM THE COMMISSION IN THAT IS[sic] SEEKS RESOLUTION OF THE AMOUNT IN DISPUTE. CARRIER CONTENDS THE HOSPITAL BORE NO COST FOR THE IMPLANTS. IT COST THE HOSPITAL IN ORDER TO PROVIDE OPERATING ROOM, STAFF AND EQUIPMENT TO ASSIST THE PHYSICIAN PLACING THE IMPLANTS. THEREFORE THE IMPLANTS ARE BY DEFACTO PART OF THE TOTAL COST BORNE BY THE HOSPITAL THEREBY GIVING MERIT TO THE HOSPITAL'S REQUEST OF FOR A STOPLOSS PAYMENT OF THE TOTAL CHARGES MINUS PRIOR PAYMENTS MADE. PROVIDER REQUEST COMMISSION TO ISSUE AN ORDER REIMBURSEMENT OF THE DISPUTED AMOUNT TO THE FACILITY."

**Amount in Dispute:** \$84,128.71

## Respondent's Position

**Respondent's Position Summary Dated July 7, 2004:** "This dispute involves this carrier's payment for dates of service in dispute for which the requester charged \$131,069.40 for five-day inpatient stay for services that were NOT unusually extensive or costly. This carrier reimbursed the requester five days per diem (\$1,118 times four) based on the TWCC Acute Care In-Patient Fee Guideline. This carrier also reimbursed the requester fair and reasonable reimbursement plus 10% for Implantables."

**Respondent's Supplemental Position Summary Dated August 21, 2017:** "At the request of DWC-MFDR, Texas Mutual is supplementing the record in this dispute to include the petition it filed in Travis County District Court seeking refunds for the erroneously ordered stop-loss reimbursement, which includes the SOAH decision and order and Texas Mutual's Explanation of Benefit showing the amount Texas Mutual was erroneously ordered to pay."

**Response Submitted by:** Texas Mutual Insurance Co

## Findings and Decision

### Authority

This medical fee dispute is decided according to [Texas Labor Code \(TLC\) §413.031](#) and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

### Statutes and Rules

1. [28 Texas Administrative Code \(TAC\) §133.305, 27 Texas Register 12282](#), applicable to requests filed on or after January 1, 2003, sets out the procedures for resolving medical disputes.
2. [28 TAC §133.304, 17 Texas Register 1105](#), effective February 20, 1992, sets out the provisions for insurance carriers to dispute and audit medical bills.
3. [28 TAC §133.307, 27 Texas Register 12282](#), applicable to requests filed on or after January 1, 2003, sets out the procedures for resolving medical fee disputes.
4. [TAC §134.1, 27 Texas Register 4047](#), effective May 16, 2002, sets out the guidelines for a fair and reasonable amount of reimbursement in the absence of a contract or an applicable Division fee guideline.
5. [28 TAC §134.401, 22 Texas Register 6246](#), effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.

## Denial Reasons

The insurance carrier reduced the payment for the disputed services with the following claim adjustment codes:

- F-Fee guideline MAR reduction.
- JF-Documentation submitted does not substantiate the service billed. Complete itemized statement was not submitted with original billing. Will reconsider with completed billing
- 01-The charge for the procedure exceeds the amount indicted in the fee schedule.
- YC-Reimbursed per negotiated contract with Health Net Plus (Formerly EOS) or one of their sub-network affiliates.
- S-Supplemental payment.
- YS-Supplemental payment.
- TR-Reimbursed in accordance with the Texas Hospital Fee Guideline. Services do not appear unusually costly.
- M-No Mar
- YM-The reimbursement for the service rendered has been determined to be fair and reasonable based on billing and payment research and is in accordance with Labor Code 413.011(D).
- YO – Reimbursement was reduced or denied after reconsideration of treatment/service billed
- D-Duplicate bill.
- YD-Duplicate appeal. An appeal of the original audit decision was previously performed for these services. If you disagree with the original appeal decision, you may request medical dispute resolution through the Texas Workers' Compensation Commission.
- X-Payment to injured employee.
- TM-Services were reimbursed in accordance with the carrier's fair and reasonable, cost data is unavailable for your facility at this time. Additional reimbursement may be considered upon receipt of this information.
- YN-Documentation has not been submitted to substantiate this service.
- CAC-W1-Workers' compensation state fee schedule adjustment.
- CAC-16-Claim/service lacks information which is needed for adjudication. Additional information is supplied using remittance advice remarks codes whenever appropriate.
- CAC-18-Duplicate appeal.
- 241-Not documented.
- 878-Duplicate appeal. Request medical fee dispute resolution for continued disagreement of original appeal decision.
- 920-Reimbursement is being allowed based upon a dispute.
- Notes: "TEXAS MUTUAL BELIEVES THE ENCLOSED PAYMENT IS AN OVERPAYMENT AND RESERVES ALL RIGHTS AFFORDED TO IT BY LAW TO RECOVER THIS OVERPAYMENT WITH INTEREST."

## Dispute History

- This dispute was originally decided on May 25, 2005.
- The original dispute decision was appealed to District Court.
- The 53rd Judicial District remanded the dispute to the division pursuant to an agreed order of remand D-1-GN-08-001516 dated June 23, 2014.
- As a result of the remand order, the dispute was re-docketed at the DWC's medical fee dispute resolution section.
- M4-04-A441-02 is hereby reviewed

## Issues

1. Was a reduction based on a negotiated contract supported?
2. Did the audited charges exceed \$40,000.00?
3. Did the admission in dispute involve unusually costly services?
4. Did the admission in dispute involve unusually extensive services?
5. Is the requestor entitled to additional reimbursement?
6. Is a refund claim presented for adjudication??

## Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 TAC §134.401, titled *Acute Care Inpatient Hospital Fee Guideline*, effective August 1, 1997, 22 Texas Register 6264. The Third Court of Appeals' November 13, 2008 opinion in *Texas Mutual Insurance Company v. Vista Community Medical Center, LLP*, 275 South Western Reporter Third 538, 550 (Texas Appeals – Austin 2008, petition denied) addressed a challenge to the interpretation of 28 TAC §134.401. The Court concluded that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services." Both the requestor and respondent in this dispute were given an opportunity to supplement the original MDR submissions after the 3<sup>rd</sup> Court of Appeals Decision. Neither party to the dispute submitted a supplemental position. Documentation filed by the requestor and respondent to date is considered in determining whether the admission in dispute is eligible for reimbursement under the stop-loss method of payment. Consistent with the Third Court of Appeals' November 13, 2008 opinion, the DWC will address whether the total audited charges **in this case** exceed \$40,000; whether the admission and disputed services **in this case** are unusually extensive; and whether the admission and disputed services **in this case** are unusually costly. 28 TAC §134.401(c)(2)(C) states, in pertinent part, that "Independent reimbursement is allowed on a case-by-case basis if the particular case exceeds the stop-loss threshold ..." In that same opinion, the Third Court of Appeals states that the stop loss exception "... was meant to apply on a case-by-case basis in relatively few cases." 28 TAC §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. According to the explanation of benefits dated October 29, 2003, the insurance carrier paid the services in dispute in accordance with a negotiated contract. The submitted documentation does not support a negotiated contract discount. The DWC finds that the documentation does not support this denial. Therefore, reimbursement for the services will be reviewed in accordance with applicable division rules and guidelines.
2. 28 TAC §134.401(c)(6)(A)(i) states, "to be eligible for stop-loss payment the total audited charges for a hospital admission must exceed \$40,000, the minimum stop-loss threshold." Furthermore, 28 TAC §134.401(c)(6)(A)(v) states that "Audited charges are those charges which remain after a bill review by the insurance carrier has been performed." A review of the explanations of benefits issued by the respondent finds that the carrier deducted \$31.10 for personal convenience charges in accordance with §134.401(c)(6)(A)(v). Therefore, the audited charges equal \$131,038.30. The DWC concludes that the total audited charges exceed \$40,000.00.
3. 28 TAC §134.401(c)(6) states that "stop-loss is an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually costly services rendered during treatment to an injured worker." The Third Court of Appeals' November 13, 2008 opinion concluded that in order to be eligible for reimbursement under the stop-loss exception, a hospital must demonstrate that an admission involved unusually costly services.

The requestor's position statement does not address how this inpatient admission was unusually costly. The requestor does not provide a reasonable comparison between the cost associated with this admission when compared to similar spinal surgery services or admissions, thereby failing to demonstrate that the admission in dispute was unusually costly. The division concludes that the requestor failed to meet the requirements of 28 TAC §134.401(c)(6).

4. 28 TAC §134.401(c)(2)(C) allows for payment under the stop-loss exception on a case-by-case basis only if the particular case exceeds the stop-loss threshold as described in paragraph (6). 28 TAC §134.401(c)(6)(A)(ii) states that "This stop-loss threshold is established to ensure compensation for unusually extensive services required during an admission."

The Third Court of Appeals' November 13, 2008 opinion states that "to be eligible for reimbursement under the Stop-Loss Exception, a hospital must demonstrate that the total audited charges exceed \$40,000 and that an admission involved unusually costly and unusually extensive services" and further states that "independent reimbursement under the Stop-Loss Exception was meant to apply on a case-by-case basis in relatively few cases."

The requestor, in its original position statement, states that "Carrier contends the hospital bore no cost for the implants. It cost the hospital in order to provide operating room, staff, and equipment to assist the physician placing the implants. Therefore, the implants are by defacto part of the total cost borne by the hospital. Thereby giving merit to the hospital's request for a stoploss payment of the total charges minus prior payments made."

This statement does not meet the requirements of 28 Texas Administrative Code §134.401(c)(2)(C) because the requestor presumes that the disputed services meet Stop-Loss exception simply due to associated services, thereby presuming that the admission was unusually extensive. The DWC concludes that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(2)(C).

5. For the reasons stated above, the services in dispute are not eligible for the stop-loss method of reimbursement. Consequently, reimbursement shall be calculated pursuant to 28 TAC §134.401(c)(1) subtitled Standard Per Diem Amount and §134.401(c)(4) subtitled Additional Reimbursements. The DWC notes that additional reimbursements under §134.401(c)(4) apply only to bills that do not reach the stop-loss threshold described in subsection (c)(6) of this section.

28 TAC §134.401(c)(3)(A)(ii) states, in pertinent part, that "The applicable Workers' Compensation Standard Per Diem Amount (SPDA) is multiplied by the length of stay (LOS) for admission ..." The requestor indicated on the DWC-60 that the disputed dates of service are August 26, 2003, through September 2, 2003. The submitted medical bills indicate the inpatient hospital stay was from August 26, 2003, through August 31, 2003. The requestor did not support a request for the additional inpatient days. Review of the submitted documentation finds that the length of stay for this admission was five surgical days; therefore, the standard per diem amount of \$1,118.00 multiplied by the five days result in a total allowable amount of \$5,590.00.

28 TAC §134.401(c)(4)(A), states "When medically necessary the following services indicated by revenue codes shall be reimbursed at cost to the hospital plus 10%: (i) Implantables (revenue codes 275, 276, and 278), and (ii) Orthotics and prosthetics (revenue code 274)." A review of the submitted medical bill indicates that the requestor billed revenue code 278 for implants at \$63,175.40.

Review of the medical documentation provided finds that although the requestor billed items under revenue code 278, no invoices were found to support the cost of the implantables billed. For that reason, no additional reimbursement can be recommended.

The DWC finds that the total allowable for this admission is \$5,590.00. According to the submitted documentation, the respondent issued payment in the amount of \$20,765.57. The DWC finds that additional reimbursement cannot be recommended.

6. Per the foregoing analysis, the respondent insurance carrier has issued payment that exceeds the total allowable for this admission. In its supplemental response to this medical fee dispute, the insurance carrier "asks the MFDR to include in its ruling on the proper stop-loss reimbursement amount, a decision on the 'refund' issue ..."

The DWC's medical fee dispute resolution process involves a case-by-case determination of fee disputes presented. The DWC's adjudication of such a claim at this time would be premature. This process neither allows for nor requires consideration of, or response to, any parties' request that the DWC generally state its position as to a potential claim, however related to a pending dispute, that may or may not be asserted in the future.

## Conclusion

The submitted documentation does not support the reimbursement amount sought by the requestor. The requestor in this case demonstrated that the audited charges exceed \$40,000, but failed to demonstrate that the disputed inpatient hospital admission involved unusually extensive services, and failed to demonstrate that the services in dispute were unusually costly. Consequently, 28 TAC §134.401(c)(1) titled *Standard Per Diem Amount*, and §134.401(c)(4) titled *Additional Reimbursements* are applied and result in no additional reimbursement.

## **Order**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the DWC has determined that the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

## **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

October 27, 2023  
\_\_\_\_\_  
Date

## **Your Right to Appeal**

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed Request for a Medical Contested Case Hearing (form DWC045A) must be received by the DWC Chief Clerk of Proceedings within twenty days of your receipt of this decision. A request for a hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MFDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the division. Please include a copy of this Medical Fee Dispute Resolution Findings and Decision, together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a certificate of service demonstrating that the request has been sent to the other party.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.