



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

VISTA HOSPITAL OF DALLAS
4301 VISTA ROAD
PASADENA TX 77504

Carrier's Austin Representative Box

19

Respondent Name

WC SOLUTIONS

MFDR Date Received

DECEMBER 2, 2004

MFDR Tracking Number

M4-07-6990-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "In this case, it is clear that the admission as unusually costly and unusually extensive, and, it is undisputed that audited billed charges exceeded \$40,000. The admission was unusually extensive and usually costly when viewed from either of two perspectives, either in comparison to all other inpatient admissions of workers' compensation patients, or when compared to other spine surgeries. Specifically, the admission was unusually costly because stem cells with morselized allograft were used and had to be purchased from an outside source. Spinal instrumentation, including internal fixation, PEEK lordotic cage-pedicle screw system was used. The patient had to have intra-operative monitoring and had a 5 day stay. Further, the admission was unusually extensive as the patient underwent a 360 fusion at L4-L5 requiring two surgeons. The patient ran a low grade temperature which spiked requiring the use of Lequavin IV antibiotics and the patient's blood pressure fluctuated extending the length of stay. Therefore, reimbursement should be in an amount which is 75% of billed charges which is \$98,608.28."

Amount in Dispute: \$77,955.28

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The respondent did not submit a position summary in the response packet.

Response Submitted by: Sherry Olliver

SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
April 30, 2004 through May 5, 2004	Inpatient Hospital Services	\$77,955.28	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 and §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.
2. 28 Texas Administrative Code §134.600, 29 *Texas Register* 2349, effective March 14, 2004, requires preauthorization for inpatient hospital services.
3. 28 Texas Administrative Code §134.401, 22 *Texas Register* 6264, effective August 1, 1997, sets out the fee guidelines for inpatient services rendered in an acute care hospital.
4. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines
5. 28 Texas Administrative Code §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.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of Benefits

- Preauthorization required but not requested. Pre-authorization was given for only 4-day inpatient stay.
- F-Fee guideline MAR reduction.
- M-No MAR-reimbursement based on fees established to be fair and reasonable in your geographical area.
- O-Denial after reconsideration.

Issues

1. Did the audited charges exceed \$40,000.00?
2. Did the admission in dispute involve unusually extensive services?
3. Did the admission in dispute involve unusually costly services?
4. Does a preauthorization issue exist in this dispute?
5. Is the requestor entitled to additional reimbursement?

Findings

This dispute relates to inpatient surgical services provided in a hospital setting with reimbursement subject to the provisions of Division rule at 28 Texas Administrative Code §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 Texas Administrative Code §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 case were notified via form letter that the mandate for the decision cited above was issued on January 19, 2011. Each was given the opportunity to supplement their original MDR submission, position or response as applicable. The division received supplemental information as noted in the position summaries above. The supplemental information was shared among the parties as appropriate. The documentation filed by the requestor and respondent to date will be 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 division 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 Texas Administrative Code §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 as described in paragraph (6) of this subsection...” 28 Texas Administrative Code §134.401(c)(6) puts forth the requirements to meet the three factors that will be discussed.

1. 28 Texas Administrative Code §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, (A) (v) of that same section states “...Audited charges are those charges which remain after a bill review by the insurance carrier has been performed...” Review of the explanation of benefits issued by the carrier finds that the carrier did not deduct any charges in accordance with §134.401(c)(6)(A)(v); therefore the audited charges equal \$131,477.70. The Division concludes that the total audited charges exceed \$40,000.
2. 28 Texas Administrative Code §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). Paragraph (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 position statement states that “In this case, it is clear that the admission as unusually costly and unusually extensive, and, it is undisputed that audited billed charges exceeded \$40,000. The admission was unusually extensive and usually costly when viewed from either of two perspectives, either in comparison to all other inpatient admissions of workers’ compensation patients, or when compared to other spine surgeries. Specifically, the admission was unusually costly because stem cells with morselized allograft were used and had to be purchased from an outside source. Spinal instrumentation, including internal fixation, PEEK lordotic cage-pedicle screw system was used. The patient had to have intra-operative monitoring and had a 5 day stay. Further, the admission was unusually extensive as the patient underwent a 360 fusion at L4-L5 requiring two surgeons. The patient ran a low grade temperature which spiked requiring the use of Lequavin IV antibiotics and the patient’s blood pressure fluctuated extending the length of stay. Therefore, reimbursement should be in an amount which is 75% of billed charges which is \$98,608.28.” This position 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, thereby presuming that the admission was unusually extensive. The requestor’s position failed to meet the requirements of §134.401(c)(2)(C) because the requestor does not demonstrate how the services in dispute were unusually extensive compared to similar surgery services or admissions. The division concludes that the requestor failed to meet the requirements of 28 Texas Administrative Code §134.401(c)(2)(C).

3. 28 Texas Administrative Code §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 did not demonstrate 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 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 Texas Administrative Code §134.401(c)(6).
4. According to the explanation of benefits, the respondent denied reimbursement for the 5th inpatient hospital day based upon “Preauthorization required but not requested. Pre-authorization was given for only 4-day inpatient stay.” 28 Texas Administrative Code §134.600(i)(1) states “The health care requiring concurrent review for an extension for previously approved services includes: inpatient length of stay.” The requestor did not submit documentation to support the 5th inpatient hospital day was preauthorized; therefore, a preauthorization issue exists and reimbursement cannot be recommended for the 5th inpatient hospital day.
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 Texas Administrative Code §134.401(c)(1) titled *Standard Per Diem Amount* and §134.401(c)(4) titled *Additional Reimbursements*. The Division 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.
 - Review of the submitted documentation finds that the services provided were surgical; therefore the standard per diem amount of \$1,118.00 per day applies. Division rule at 28 Texas Administrative Code §134.401(c)(3)(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 length of stay was five days; however, documentation supports that the Carrier pre-authorized a length of stay of four days in accordance with 28 Texas Administrative Code Rule §134.600. Consequently, the per diem rate allowed is \$4,472.00 for the four authorized days.
 - 28 Texas Administrative Code §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).”

- The Division finds the total allowable for the implants billed under revenue code 278 is:

Description of Implant per Itemized Statement	QTY.	Cost Per Unit	Cost + 10%
Graft Chamber I/C 5cc GDS005	1	\$836.00	\$919.60
Graft Chamber I/C 10cc GDS010	1	\$440.00	\$484.00
Cage T1 Peek ALIF 1214D2130	2	\$5,795.00 – The invoice only supports 1 unit. This is further supported by the Operative report and Implants/Prosthesis report; therefore 1 unit considered for reimbursement.	\$6,374.50
Screw Pedicle 6.0x40mm SG6040	4	\$805.50	\$3,542.00
Screw Caps SG3010	4	\$306.00	\$1,346.40
Connector 1mm Standard Spinal SOL 5	4	\$496.00	\$2,182.40
Rod 40mm Spinal SOL SG1604	1	\$297.00	\$326.70
Rod 50mm Spinal Solution SG1605	1	\$297.00	\$326.70
Symphony Graft Delivery Sys 2760-50	1	\$165.00	\$181.50
TOTAL			\$15,683.80

- 28 Texas Administrative Code §134.401(c)(4)(C) states “Pharmaceuticals administered during the admission and greater than \$250 charged per dose shall be reimbursed at cost to the hospital plus 10%. Dose is the amount of a drug or other substance to be administered at one time.” A review of the submitted itemized statement finds that the requestor billed \$425.00/unit for Morphine Sulfate PCA: 30MG/30ML. The requestor did not submit documentation to support what the cost to the hospital was for these pharmaceuticals. For that reason, additional reimbursement for these items cannot be recommended.

The division concludes that the total allowable for this admission is \$20,155.80. The respondent issued payment in the amount of \$20,653.00. Based upon the documentation submitted, no additional reimbursement can be recommended.

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 Texas Administrative Code §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 Division 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

02/13/2014
Date

Signature

Medical Fee Dispute Resolution Manager

02/13/2014
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 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 MDR 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 the *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.