



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

HEALTHCARE SUBROGATION GROUP

Respondent Name

SAFETY NATIONAL CASUALTY COMPANY

MFDR Tracking Number

M4-22-2669-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

August 18, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 1, 2021	72100, 73560, 73620, 73700, 99283-25, 72100-26, 73560-26-LT, 73630-26-LT, and 73700-26-LT	\$374.09	\$0.00
Total		\$374.09	\$0.00

Requestor's Position

"... a health insurer's failure to seek reimbursement from the provider and/or a provider's failure to bill the workers' compensation carrier cannot be interposed as a denial to a reimbursement request. Consequently, Carrier's denial of the reimbursement request based on the assertion that the providers would need to bill Carrier and that Subclaimant would then need to seek reimbursement from the providers is invalid and expressly prohibited by 28 TAC §140.7(d)."

Amount in Dispute: \$374.09

Respondent's Position

The Austin carrier representative for Safety National Casualty Corporation is Flahive Ogden & Latson. Flahive Ogden & Latson was notified of this medical fee dispute on August 30, 2022. Rule §133.307(d)(1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division may base its decision on the available information. As of today, no response has been received from the carrier or its representative. We therefore base this decision on the information available as authorized under §133.307(d)(1).

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. The provisions of TLC §§409.009, and 409.0091 apply to dispute resolution.
2. TLC §409.0091(s) applies to health care insurer when information is provided before January 1, 2007.
3. TLC §402.084 sets out the procedures for record check and release of information.
4. 28 Texas Administrative Code (TAC) §140.8 and 28 TAC §133.307 set out the procedures for health insurers to pursue medical fee dispute resolution.

Denial Reasons

Neither party submitted copies of EOBs for consideration in this dispute.

Issues

1. Did the Requestor file for dispute resolution in accordance with TLC §409.0091 and Texas Administrative Code (TAC) §140.8?
2. Did the Subclaimant file for reimbursement from the workers' compensation insurance carrier in the form and manner prescribed by TLC §409.0091(l) and (k)?
3. Did the subclaimant submit a DWC060 in accordance with TLC §409.0091(f)?
4. Did the subclaimant submit a request for reimbursement in accordance with the timeframes outlined in TLC §409.0091 (n)?
5. Did the subclaimant submit sufficient documentation to support that the requirements of 28 TAC §140.8 were met?
6. Is the Subclaimant entitled to reimbursement for the disputed services?

Findings

1. The healthcare insurer (subclaimant) seeks recovery from the Texas workers' compensation insurance carrier, for facility services rendered to a Texas workers' compensation claimant on December 1, 2021. The subclaimant seeks recovery pursuant to §409.0091.

TLC §409.0091 effective September 1, 2007, was added by Acts 2007, 80th Leg., R.S., Ch. 1007 (H.B. 724), Sec. 8. The Subclaimant of this medical fee dispute represents a health care insurer as defined by TLC §409.0091(a). TLC §409.0091(c) states that health care paid by a health care insurer may be reimbursable as a medical benefit.

The Subclaimant seeks recovery in the amount of \$374.09, pursuant to TLC §409.0091. The provisions of TLC §409.0091, and 28 TAC Rule §140.8 apply to this request for reimbursement by a health care insurer and are hereby applied in the Division's determination of whether payment is due in this case.

2. TLC §409.0091(l) states that "Any dispute that arises from a failure to respond to or a reduction or denial of a request for reimbursement of services that form the basis of the subclaim must go through the appropriate dispute resolution process under this subtitle and division rules."

Applicable TLC §409.0091(k)(1) and corresponding 28 TAC §140.8 (h)(3)(A)(i), states that a health care insurer must file a request for medical dispute resolution with the Division not later than the 120th day after a workers' compensation insurance carrier fails to respond to a health care insurer's reimbursement request or reduces or denies the requested reimbursement amount for reasons other than lack of medical necessity.

A review of CorVel's response letter finds that the workers' compensation insurance carrier responded to the reimbursement request letter on May 2, 2022. The Division received the dispute on August 18, 2022.

The Division finds that the medical fee dispute resolution request was filed with the Division no later than 120 days after the workers' compensation insurance carrier responded to the health care insurer's reimbursement request letter dated May 2, 2022.

3. TLC §409.0091 (f) (4)(5) states, "Sec. 409.0091(f) Subject to the time limits under Subsection (n), the health care insurer shall provide, with any reimbursement request, the tax identification number of the health care insurer and the following to the workers' compensation insurance carrier, in a form prescribed by the division: (4) information identifying the workers' compensation case...(5) information describing the health care paid by the health care insurer..."

The reimbursement request form (DWC Form-026), which was submitted to the Division with the DWC medical fee dispute resolution request (DWC060), contained all the data mandated by TLC §409.0091(f).

A review of the DWC Form-026, request for reimbursement form, finds that the Subclaimant met the requirements of §409.0091(f).

4. TLC §409.0091 states, "(n) Except as provided by Subsection (s), a health care insurer must file a request for reimbursement with the workers' compensation insurance carrier not later than six months after the date on which the health care insurer received information under Section [402.084](#)(c-3) and not later than 18 months after the health care insurer paid for the health care service."

The Subclaimant contends that a data match was received from the Division on March 22, 2022. The Subclaimant provided a copy of a DWC Form-026 dated April 8, 2022. The Division finds that the Subclaimant met the required timeframe for filing the request for reimbursement within six months after the date of the data match.

A review of the submitted documentation finds that the earliest payment date for the services in dispute is January 1, 2022. The Subclaimant sought recovery from the workers compensation insurance carrier on April 8, 2022. The Division finds that the subclaimant provided sufficient evidence to substantiate that the health care insurer paid for the services in dispute within the 18-month timeframe.

5. 28 TAC §140.8(c)(2), states, "(2) Notice. The health care insurer must give notice of the request to the injured employee and the health care provider that performed the services that are the subject of the reimbursement request. The notice shall include a copy of the reimbursement request and an explanation that the health care insurer is seeking reimbursement for medical care costs."

A review of the documents presented with the medical fee dispute resolution request finds that the Subclaimant did not submit any documents to support that the requirements of 28 TAC 140.8(c)(2) were met.

6. Pursuant to §140.8(c)(2), the Subclaimant submitted inadequate documentation to support that both the injured worker and the healthcare practitioner who provided the services that are the subject of the reimbursement request were notified of the request by the health insurance. A copy of the reimbursement request and an explanation of the health care insurer's request for payment for medical expenses must be included in the notice. Because the Subclaimant failed to meet the requirements of §140.8(c)(2), reimbursement cannot be recommended.

The Division finds that the Subclaimant has not met the specified rule requirements, and therefore, consideration has not been given to the merits of the request for reimbursement under TLC § 409.0091.

Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the Subclaimant and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

The Division finds the requester has established that reimbursement of \$0.00 is due.

Order

Under TLC §§413.031 and 413.019, the Division has determined the Subclaimant is entitled to \$0.00 reimbursement for the services in dispute.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

September 13, 2024
Date

Your Right to Appeal

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the instructions on the form. You can find the form at www.tdi.texas.gov/forms/form20numeric.html. DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, call CompConnection at 1-800-252-7031, option 3 or email CompConnection@tdi.texas.gov.

The party seeking review of the MFDR decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** with any other required information listed in 28 TAC §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, opción 3 o correo electrónico CompConnection@tdi.texas.gov.