



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

HEALTHCARE SUBROGATION GROUP

**Respondent Name**

AIU INSURANCE COMPANY

**MFDR Tracking Number**

M4-23-2560-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

June 6, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
April 19, 2022	99283	\$614.10	\$0.00
<b>Total</b>		\$614.10	\$0.00

### Requestor's Position

"Subclaimant served the attached DWC 026 on 11/17/2022 (data match date: 07/01/2022) requesting reimbursement, with all supporting documents and information as required by Texas Labor Code §409.0091... Despite Subclaimant's numerous attempts to follow up on the status and processing of the reimbursement request in question, Carrier failed to issue payment or any response whatsoever (see attached Correspondence with Carrier). To date, Subclaimant has therefore not received payment or an EOB explaining the basis for denial of the reimbursement request from Carrier. As a result, it is Subclaimant's position that Carrier failed to respond to the reimbursement request within the requisite 90-day period."

**Amount in Dispute:** \$614.10

## **Respondent's Position**

The Austin carrier representative for AIU Insurance Company, Flahive, Ogden & Latson. Flahive, Ogden & Latson was notified of this medical fee dispute on June 13, 2023. 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 §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

### Statutes and Rules

1. The provisions of Texas Labor Code (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, pursuant to TLC §402.084(c-3).
3. TLC §402.084 sets out the procedures for record check and release of information.
4. 28 Texas Administrative Code (TAC) §§TAC §140.6, 140.8 and 28 TAC §133.307 set out the procedures for health insurers to pursue medical fee dispute resolution.

### Denial Reasons

Neither party provided copies of EOBs for consideration in this review.

### 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(k) and (l)?
3. Did the subclaimant submit sufficient documentation to support that the requirements of 28 TAC §140.8 were met?
4. 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 an emergency room visit rendered to a Texas workers compensation claimant on April 19, 2022. The Subclaimant seeks recovery in the amount of \$614.10, pursuant to TLC §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 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 an email correspondence between the requestor with HCGS and the respondent with CorVel, dated January 6, 2023, finds that the Subclaimant contends that a request for reimbursement was submitted to CorVel, November 17, 2022.

The requestor sent correspondence pertaining to the "refund" status on January 27, 2023, and February 10, 2023. A review of the email correspondence contained in the DWC060 request finds no response from CorVel pertaining to the reimbursement request after the submission of the DWC Form-026 dated November 17, 2022.

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

The Division received the request for a medical dispute resolution on April 20, 2023. On November 17, 2022, the Subclaimant sent a reimbursement request via DWC026 to the workers' compensation insurance insurer. The medical fee dispute resolution request must be submitted within 120 days of the workers' compensation insurance carrier's failure to reply to the health care insurer's request for payment, in accordance with 28 TAC §140.8 (h)(3)(A)(i).

The Division finds that the medical dispute resolution request was not submitted to the Division within 120 days following the workers' compensation insurance carrier's failure to reply to the reimbursement request letter dated November 17, 2022.

3. 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.

4. The Division finds that the following:

- Pursuant to TLC §409.0091(k)(1) and corresponding 28 TAC §140.8 (h)(3)(A)(i), the Division finds that the Subclaimants submitted documentation that does not support the filing of the medical fee dispute resolution request with the Division within the 120-day timeframe, after the workers compensation carrier's failure to respond to the reimbursement request.
- 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.

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

_____	_____	September 13, 2024
Signature	Medical Fee Dispute Resolution Officer	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](http://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](mailto: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](mailto:CompConnection@tdi.texas.gov).