



## Medical Fee Dispute Resolution Findings and Decision General Information

**Requestor Name**

HEALTHCARE SUBROGATION GROUP

**Respondent Name**

OLD REPUBLIC INSURANCE COMPANY

**MFDR Tracking Number**

M4-23-2726-01

**Carrier's Austin Representative**

Box Number 44

**DWC Date Received**

June 26, 2023

### Summary of Findings

Dates of Service	Disputed CPT and Revenue Codes	Amount in Dispute	Amount Due
November 12, 2022	99283, and 0250	\$15,143.87	\$0.00
November 14, 2022	80053-26, 85025-26, 70480-26, 70480, 80053, 85025, 99284-25, 0250, 99284, 92004, 92250		
November 16, 2022	00145-QX, 88300-26, 65210-LT, 67040-LT, 88300, J0171, J1100, J1100-JW, J1170, J2001, J2250, J2405, J2250, J2704, J2710, J2930, J3010, J3301, J3370, J3473, J3490, J7050, S0020, 0250, 0270, 0272, 0370, 0710, 65210-LT, and 67040-LT		
November 22, 2022	76512-LT		
December 5, 2022	99213		
<b>Total</b>		<b>\$15,143.87</b>	<b>\$0.00</b>

### 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:** \$15,143.87

## **Respondent's Position**

The Austin carrier representative for Old Republic Insurance Company is White Espey, PLLC. White Espey, PLLC was notified of this medical fee dispute on July 4, 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 subclaims and reimbursement for health care insurers.
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. 28 Texas Administrative Code (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

Copies of explanation of benefits (EOBs) were not provided by either of the parties for consideration in this review.

### Issues

1. Did the Subclaimant file for dispute resolution in accordance with TLC §409.009?
2. Did the Requestor file for dispute resolution in accordance with TLC §409.0091 and Texas Administrative Code (TAC) §140.8?
3. Did the Subclaimant file for reimbursement from the workers' compensation insurance carrier in the form and manner prescribed by TLC §409.0091(l)?
4. Did the subclaimant submit documentation to support that the provision of TLC §409.0091(f) were met?
5. Did the subclaimant submit documentation to support that the provision of TLC §409.0091(n) were met?
6. Did the Subclaimant file for reimbursement from the workers' compensation insurance carrier in the form and manner prescribed by TLC §409.0091 (i)?
7. Did the subclaimant submit sufficient documentation to support that the requirements of 28 TAC §140.8 were met?
8. 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 medical services rendered to a Texas workers compensation claimant on November 12, 2022, through December 5, 2022. The subclaimant seeks recovery pursuant to both §409.009 and §409.0091.

The subclaimant is seeking \$15,143.87, pursuant to §409.009.

TLC § 409.009 states in pertinent part, "A person may file a written claim with the division as a subclaimant if the person has: 1) provided compensation, including health care provided by a health care insurer, directly or indirectly, to or for an employee or legal beneficiary; and (2) sought and been refused reimbursement from the insurance carrier.

28 TAC §140.6(d) states in pertinent part, "Subclaimants, other than subclaimants described in §409.0091, must pursue a claim for reimbursement of medical benefits and participate in medical dispute resolution in the same manner as an injured employee or in the same manner as a health care provider, as appropriate, under Chapters 133 and 134 of this title (relating to General Medical Provisions and Benefits--Guidelines for Medical Services, Charges, and Payments); and 2) A health care insurer subclaimant must submit a reimbursement request in the form/format and manner prescribed by the Division and must contain all the required elements listed on the form.

28 TAC 133.307 (c)(1)(A), requires the submission of EOBs, medical bills, and medical documents that were absent in the dispute DWC060 package. The request for dispute resolution contained inadequate documentation to demonstrate compliance with 28 TAC 140.6(d), TLC 409.009 and 28 TAC 133.307.

The Subclaimant has not provided adequate information that; (a) the Requestor billed the insurance carrier utilizing the required standard forms used by the Center for Medicare and Medicaid Services per 28 TAC §133.10(a)(1); (b) the Requestor billed the carrier no later than the 95th day after the date the services are provided per 28 TAC §133.20(b); (c) the Requestor included correct billing codes from the applicable Division fee guidelines per 28 TAC §133.20 (c) and §134.203 (b)(1) that requires use of Medicare payment policies including its coding and billing; and/or (e) that the services were directly supervised by a licensed health care provider as required by 28 TAC §134.203(e)(2).

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 § 409.009.

2. 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 is seeking \$15,143.87, pursuant to TLC §409.0091. The respondent is a Texas workers' compensation insurance carrier. 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.

3. 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.

The Subclaimant submitted copies of email correspondence between HCSG and Sedgwick. On May 15, 2023, Joseph Moreno with Sedgwick responded to the reimbursement request.

The Division received the Subclaimants medical fee dispute resolution request on June 26, 2023, within 120 days after the workers' compensation insurance carrier responded to the health care insurer's reimbursement request.

4. 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..."

A review of the DWC026 and the DWC060 provided to the Division finds that the Subclaimant provided enough evidence to substantiate that all the data mandated by TLC §409.0091(f) was contained in the reimbursement request.

5. 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 February 22, 2023. The Subclaimant provided a copy of a DWC026 form and a copy of the request for reimbursement letter dated March 13, 2023, to support that the reimbursement request was filed with the workers compensation insurance carrier within six months after the date of the data match.

6. TLC §409.0091(i) states "On receipt of a request for reimbursement under this section, the workers' compensation insurance carrier shall respond to the request in writing not later than the 90th day after the date on which the request is received."

The Subclaimant submitted a copy of a "Reimbursement Request" letter dated March 13, 2023. Sedgwick responded to the reimbursement request on May 15, 2023, stating, "I will not make manual payments. The providers office will need to bill us directly and reimburse your office."

The Division concludes that the worker's compensation insurance carrier promptly responded to the health care insurer's "Reimbursement Request" letter.

7. 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 Subclaimant did not submit any documents to support the requirements of 28 TAC 140.8(c)(2).

8. 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

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
August 7, 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](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).