



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

Healthcare Subrogation Group

Respondent Name

Employers Insurance Company of Wausau

MFDR Tracking Number

M4-23-2749-01

Carrier's Austin Representative

Box Number 01

DWC Date Received

June 27, 2023

Summary of Findings

Dates of Service	Disputed Services (CPT and Revenue Codes)	Amount in Dispute	Amount Due
September 8, 2022	73030-26-RT, 73060-26-RT, 73030-26-LT, 73060-26-LT, 99291	\$44,663.11	\$0.00
September 9, 2022	73200-26-LT, 73200-26-RT, 23650-59-LT, J0330, J0690, J1170, J1650, J1885, J2250, J2270, J2405, J2704, J2710, J2795, J3010, J7030, J7050, J7120, 0111, 0250, 0278, 0300, 0320, 0350, 0360, 0370, 0424, 0430, 0434, 0450, 0710, 01620-QZ-P3, 23630-RT, 73020-26-59, 73030-26, and 99292		
September 10, 2022	99232		
September 11, 2022	99232		
September 12, 2022	99232, L3670-RT, 01630-QZ-P2, and 76942-26		
September 13, 2022	99238		
Total			

Requestor's Position

"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. 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: \$44,663.11

Respondent's Position

"The dispute received is from Healthcare Subrogation Group and this should have been submitted per the Sub-claimant protocol. Please submit all Sub-Claimant bills to GATEchnicalTeam GATEchnicalTeam@LibertyMutual.com to ensure handled within time allotted. As a sign of good faith, the bills have been entered and processed for payment. Attached are copies of EOBs for your review."

Submitted by: Liberty Mutual Insurance Company

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) §409.0091 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. 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

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

Audit Date: July 10, 2023 – after the MFDR submission.

- 876 – Fee schedule amount is equal to the charge.
- 128 – The allowance is based on the anesthesia service performed.
- 137 – the allowance is based on the anesthesia services performed by a CRNA not under the medical direction of an anesthesiologist.
- 347 – Patient with severe systemic disease.
- 86 – Service performed was distinct or independent from other services performed on the same day.

- 591 – Value of surgery code reduced according to a visit billed within the follow-up days which previously reviewed.
- 598 – Patient with mild systematic disease.
- 295 – service cannot be reviewed without a report or invoice. Please submit the report/invoice as soon as possible to ensure accurate processing.

Issues

1. Did the workers' compensation insurance carrier issue a payment after the submission of the MFDR request?
2. Did the Subclaimant 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 sufficient documentation to support that the requirements of 28 TAC §140.8 were met?
5. Is the Subclaimant entitled to reimbursement for the disputed services?

Findings

1. The healthcare insurer (subclaimant) seeks reimbursement in the amount of \$44,663.11 for services rendered on September 8, 2022, through September 13, 2022. After the submission of the Subclaimants request for medical fee dispute resolution (MFDR), the workers compensation insurance carrier issued a payment in the amount of \$2,791.23 per the explanation of benefits (EOB) dated July 10, 2023.
2. The Subclaimant seeks recovery from the Texas workers' compensation insurance carrier, for medical services rendered to a Texas workers compensation claimant 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 DWC finds that 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.

A review of the DWC026 and the reimbursement request letter, finds that the Subclaimant submitted the reimbursement request to the workers compensation insurance carrier on January 5, 2023. The workers' compensation insurance carrier failed to respond to the reimbursement request. The Division received the DWC060 dispute on June 27, 2023.

The Division finds that the medical dispute resolution request was not filed with the Division within the timeframe indicated in TLC §409.0091(k)(1). As a result, the disputed services are not eligible for medical fee dispute resolution adjudication.

4. 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).

5. The Division finds that the following:

- Pursuant to TLC §409.0091 (k)(1), the Subclaimant submitted insufficient documentation to support that the medical fee dispute resolution request was submitted to the Division not later than 120 days after the insurance 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

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. 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.