TDI Division of Workers' Compensation
PO Box 12050 | Austin, TX 78711 | 800-252-7031 | tdi.texas.gov/wc

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Baylor Orthopedic & Spine Hospital

Respondent Name
Everest Premier Insurance Co

MFDR Tracking Number
M4-24-2609-01

Carrier's Austin Representative
Box Number 19

DWC Date Received
July 29, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 17, 2023	C1776	$11,389.40	$0.00
October 17, 2023	64912	$7,821.16	$12,032.56
	Total	$19,210.56	$12,032.56

Requestor's Position

The requestor did not submit a position statement with this request for MFDR. They did submit a document titled "Reconsideration" dated July 18, 2024 that states, "Per EOB received bill denied due to untimely filing. Please note that bill was submitted to Sedgwick prior to billing Corvel, which Sedgwick advised provider they are no longer payor for claim. Also, EDI submission accepted by Sedgwick on 11/6/2023 is enclosed as proof of timely filing."

Amount in Dispute: $19,210.56

Respondent's Position

"…However, the Requestor is indicating in their reconsideration letter that *bill was submitted to Sedgwick prior to billing Corvel, which correct insurance carrier was not provided timely*. This is incorrect. The Requestor includes in the MFDR package (~page56) a copy of an email from the Corvel Account Manager (Nick Anderson) dated 9-7-2023 that indicates Corvel as the TPA and

provides the mailing address, fax number and email for submitting the billing."

Response Submitted by: Corvel

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).

Statues and Rules

1. 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §133.20 sets out requirements of medical bill submission.
3. 28 TAC §102.4 details the general rules for Non-Division Communication.
4. Texas Labor Code 408.0272 sets out the workers compensation timely billing and exceptions guidelines.
5. 28 TAC §134.403 sets out the reimbursement guidelines for outpatient hospital services.

Denial Reasons

The insurance carrier denied the disputed services with the following claim adjustment codes.

- W3 – Appeal/reconsideration.
- 29 – Time limit for filing claim/bill has expired.
- RN – Not paid under OPPS: services included in APC rate.
- P14 – Payment is included in another svc/procdre occurring on same day.
- 234 – This procedure is not paid separately.
- Note: Per rule 133.20 and section 408.0272 of The Act, your documentation does not meet the criteria for proof of timely filing.

Issues

1. Did the requestor support timely submission of medical claim?
2. Did the requestor submit manufacturer's invoice to support cost of the implants?
3. What rule is applicable to reimbursement?
4. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor is seeking reimbursement of outpatient hospital services rendered in October of 2023. The insurance carrier denied as not filed timely. The requestor submitted documentation to support another workers' compensation carrier (Sedwick) was billed on November 2, 2023.

   DWC Rule 28 TAC §102.4 (h) Unless the great weight of evidence indicates otherwise, written communications will be deemed to have been sent on:

   (1) the date received if sent by fax, personal delivery, or electronic transmission; or

   (2) the date postmarked if sent by mail through United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent must be the next previous day that is not a Sunday or legal holiday.

DWC Rule 28 TAC §133.20 (b) states in pertinent part,

(b) Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.

Texas Labor Code 408.0272. (b) states in pertinent part,

(b) Notwithstanding Section 408.0272, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.0272(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if:

(1) **the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with:**

(A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured;

(B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or

(C) **a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title**;

(2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.

Review of the submitted documentation found sufficient evidence to support the disputed medical bill was submitted to Sedgwick in a timely manner in error.

DWC finds there is sufficient information to support an exception as described above. The maximum allowable reimbursement will be calculated per the applicable fee guidelines.

2. The requestor is seeking payment implants submitted on the medical bill under HCPCS Code C1776. The itemized statement submitted with this request for MFDR indicates under Revenue Code 278 and HCPCS code C1776 the following:
   - "COMPR SRS MON STEM – 6X7" charge amount $4153.00.
   - "COMPR SRS 50MM DST HML B charge amount $6201.00.

   DWC Rule 28 TAC §134.403 (g) states, "Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or $1,000 per billed item add-on, whichever is less, but not to exceed $2,000 in add-on's per admission."

   The documentation submitted with this request for MFDR did not include a manufacturer's invoice to support the cost of the implants. Separate reimbursement cannot be considered.

3. DWC Rule 28 TAC §134.403 (d) requires Texas workers' compensation system participants when coding, billing, reporting and reimbursement to apply Medicare payment policies in effect on the date of service.

   The Medicare payment policy applicable to the services in dispute is found at www.cms.gov, Claims processing Manual, Chapter 4, Section 10.1.1. Specifically, Payment Status Indicators and Ambulatory Payment Category (APC).

   DWC Rule 28 TAC §134.403 (e)(2) states in pertinent part, regardless of billed amount, if no contracted fee schedule exits that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section including any applicable outlier payment amounts and reimbursement for implantables.

   DWC Rule 28 TAC §134.403 (f) states in pertinent part the reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register*.

   The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by: (A) 200 percent; unless (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 130 percent. Review of the submitted medical bill found a request for implants was made however the required manufacturer's invoice was not submitted. The facility specific reimbursement amount will be multiplied by 200%.

   The Medicare facility specific amount is calculated when the APC payment rate is multiplied by 60% to determine the labor portion. This amount is multiplied by the facility wage index for the date of service. The non-labor amount is determined when the APC payment rate is multiplied by 40%. The sum of the labor portion multiplied by the facility wage index and the

non-labor portion determines the Medicare specific amount. Review of the submitted medical bill and the applicable fee guidelines referenced above is shown below.

- Procedure code 64912 has a status indicator of J1. The APC associated with 64912 is 5432 with a payment rate of $6,178.65 multiplied by 60% is $3,707.19 multiplied by facility wage index of 0.9562 equals the labor adjustment amount of $3,544.82.
- The non labor rate is $2,471.46.
- Total Medicare facility specific allowable $6016.86 multiplied by 200% equals a MAR of $12,032.56.

4. The total recommended reimbursement for the disputed services is $12,032.56. This amount is recommended.

Conclusion

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

DWC finds the requester has established that additional reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that Everest Premier Insurance Co must remit to Baylor Orthopedic & Spine Hospital $12,032.56 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		September 9, 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. 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, please 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 electronico CompConnection@tdi.texas.gov.