



Texas Department of Insurance

Division of Workers' Compensation

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MEMORANDUM

DATE: May 28, 2008

TO: All Hospital Facilities Participating in the Texas Workers' Compensation System

FROM: Stanton Strickland, Deputy Commissioner Legal Services

RE: Hospital Billing Practices Review

The Texas Department of Insurance, Division of Workers' Compensation (TDI-DWC), has recently initiated a review of charges submitted for inpatient services in the Texas workers' compensation system. Since 1997, inpatient hospital charges have substantially increased. According to data maintained by TDI-DWC, the average inpatient charge has risen approximately 130.6% from 1997-2005 and the average charge for implantables has risen 345.3% during that same period. However, the most dramatic increases in charges occurred between 2000 and 2003. During that time, the Texas workers' compensation system experienced an increase of approximately 225% in average charges for implantables which was more than three times the average cost for implantables.

TDI-DWC recently adopted inpatient and outpatient hospital fee guidelines, effective March 1, 2008, to help workers' compensation system participants control costs while affording fair reimbursement. However, under the prior 1997 acute care inpatient hospital fee guideline, 28 TAC §134.401, the former Texas Workers' Compensation Commission (TWCC) and now TDI-DWC has received numerous requests for medical fee dispute resolution involving hospital charges and reduced payments by insurance carriers. After reviewing some of the pending disputes, the charges appear to be significantly higher than the average charges seen for similar treatment or services by other hospitals participating in the Texas workers compensation system. These charges and requests for additional reimbursements may adversely impact the workers' compensation system by unnecessarily inflating costs in the system and may be contrary to the overarching legislative intent that reimbursement be fair and reasonable as expressed in Texas Labor Code 413.011 and 28 Texas Administrative Code 134.401(c)(6).

TDI-DWC will be reviewing the methodology that hospitals use to determine charge amounts and the reasons for any significant increases and/or inconsistency in charges. The review will focus on charges for inpatient services, including implantable devices, and will use data maintained internally and information and data to be requested from a selected group of hospitals to determine the appropriateness of the billing practices and charges.

Hospital Selection and Data Review

TDI-DWC Staff is analyzing data obtained from the Texas Health Care Information Council (THCIC). Previously, TDI-DWC staff had identified the most frequently used diagnosis related groups (DRGs) in the Texas workers' compensation system. Utilizing the THCIC data TDI-DWC staff identified the top 50 Texas hospitals that provide the identified DRGs to patients of all payor types and the top 25 hospitals that provide these same DRGs to injured employees in the workers' compensation system.

TDI-DWC will use these DRGs and hospitals in reviewing its available data and in developing comparisons in the THCIC data. TDI-DWC is conducting a series of queried reports that summarize available data and compare, at a minimum, total charges, length of stay, and charges per stay, by facility in the workers' compensation system and in other payor systems. This information will assist in identifying particular hospitals or groups of hospitals participating in the workers' compensation system who fall within certain statistical groups among the categories queried.

Once identified, TDI-DWC will request information through an inquiry/data call from these hospitals to further analyze their billing and charging practices. Statutory authority for the inquiry includes, but is not limited to, Texas Labor Code §§402.00128; 413.002; 414.002; 414.003; and 414.007. TDI-DWC staff expects to make any inquiries of selected hospitals within the next 30 days. A TDI-DWC inquiry may include, but may not be limited to, the following information:

- Master Charge Reports issued by hospitals within last 5 years;
- Policies or formula used to develop charges;
- Accounting procedures;
- Purchasing procedures;
- Cost reports;
- Purchasing agreements;
- Contracts between hospitals and carriers and/or vendors;
- Invoices/statements to patients/carriers;
- Invoices/statements to vendors;
- Audited financials (Income statements);
- Individual hospital inflation rate and cost increases over last 10 years; and
- Total reimbursements requested in medical fee disputes compared with total reimbursements accepted for similar services from other payors.

Statutory Requirements

Texas Labor Code §415.005 provides that a health care provider commits a violation if the person charges an insurance carrier an amount greater than that normally charged for similar treatment outside the workers' compensation system, except for mandated or negotiated charges. If a review of the requested information indicates that a hospital has been overcharging for treatment and services or requesting unreasonable amounts of reimbursement in medical fee disputes within the workers' compensation system, TDI-DWC may take action including, but not limited to, enforcement action.

Questions regarding this memorandum may be directed to Amy Morehouse at (512) 804-4297