

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-4790.M4**

**MDR Tracking Number: M4-05-1146-01**

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on 10-14-04.

**I. DISPUTE**

Whether there should be (additional) reimbursement for CPT code 99199, rendered from 1/31/04 through 3/26/04.

**II. RATIONALE**

Review of the requestors' position statement dated 11/5/04, states in part, "that the injured worker is a quadraplegic and requires around the clock care." The requestor stated that they had submitted proposed bill rate in the amount of \$35.50 per hour, effective 6/1/03 for home health services with the previous case management company, GAB. There is no written documentation from GAB accepting or rejecting the proposed bill rate, however, GAB reimbursed Interim Healthcare at 100% for the services rendered. The requestor further states that after AIG became involved in the account in November 2003, they improperly discounted the negotiated rate when issuing payments for the services rendered by applying a bill review deduction and a network reduction.

Review of the respondent's position statement dated 11/02/04, states in part, "... all fees were paid according to the MFG and in accordance with a negotiated contract price."

Review of the reconsideration HCFAs and EOBs reflected proof of billing in accordance with Rule 133.308 (f)(3). The file includes a letter from GAB to the requestor dated 8/17/92 confirming that the requestor will provide 24 hour staffing by an LVN for the injured worker beginning 8/17/02, with an agreed upon rate of \$21 per hour, and the care is to supervised by an RN. The requestor submitted copies of notices to GAB for bill rate increases dated 4/16/02 (increased from \$31.75 per hour to \$33.75 per hour) and 5/9/03 (increased from \$33.75 per hour to \$35.50 per hour). The requestor also provided an individual account summary reflecting full payments from GAB from 1/3/02 through 12/17/03 and invoices printed with the work schedules of the people providing the care to the injured worker.

Per conversation on February 10, 2005 with James Marek, executive vice president for Interim Mr. Marek, there was no actual contract between GAB and Interim Healthcare. Mr. Marek further clarified that whenever there was a rate increase, he would submit the request in writing to GAB and GAB issued payments accordingly.

According to the EOBs in the file, AIG issued payments for the disputed services with a payment exception code of "C", negotiated contract price. Per conversations on February 10, 2005 with

Grant Jenkins, adjuster with AIG, and James Marek, executive vice president for Interim Healthcare, there was not a contract between AIG and Interim Healthcare specifying the approved rates for billing.

Per telephone conversation with Mr. Marek on February 17, 2005, he clarified that the total remaining amount in dispute is \$13938.77, which is based on \$35.50 per hour less prior carrier payments.

According to §134.202 (d) In all cases, reimbursement shall be the least of the:

- (1) MAR amount as established by this rule;
- (2) Health care provider's usual and customary charge; or
- (3) Health care provider's workers' compensation negotiated and/or contracted amount that applies to the billed service.

The Commission has not set a MAR rate for this type of service. The carrier reduced payments for the disputed services with "C", negotiated contract price-used when reducing payment in accordance with a negotiated contract between the IC and the HCP for the specific services provided. Since both parties to the dispute acknowledge that there is not a contract for the billed rates, the carrier used an improper denial code for the reduction of payments. This administrative violation will be referred to the Commission's Compliance and Practice Division. The requestor submitted proof of prior reimbursement based on the proposed and accepted bill rate of \$35.50 per hour. Therefore, reimbursement is recommended as follows:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	Negotiated Rate	Reference	Additional Reimbursement Due
1/31/04-2/6/04	99199	\$6106	\$3633.07	C	<b>\$5964</b> (35.50X168HRS)	134.202D	\$2330.93
2/7/04-2/13/04	99199	\$6354.50	\$3780.93	C	<b>\$6035</b> (35.50X170HRS)	134.202D	\$2254.07
2/14/04-2/20/04	99199	\$6106	\$3633.07	C	<b>\$5822</b> (35.50X164HRS)	134.202D	\$2188.93
2/24/04-2/27/04	99199	\$6106	\$3633.07	C	<b>\$6035</b> (35.50X168HRS)	134.202D	\$2401.93
2/28/04-3/5/04	99199	\$7052	\$4195.94	C	<b>\$5964</b> (35.50X168HRS)	134.202D	\$1768.06
3/6/04-3/12/04	99199	\$7052	\$5416.84	C	<b>\$5964</b> (35.50X168HRS)	134.202D	\$ 547.16
3/13/04-3/19/04	99199	\$7052	\$4195.94	C	<b>\$5964</b> (35.50X168HRS)	134.202D	\$1768.06
3/20/04-3/26/04	99199	\$7052	\$4195.94	C	<b>\$5964</b> (35.50X168HRS)	134.202D	\$1768.06
TOTAL							\$15,027.20

Although the above table reflects total reimbursement due, according to the health care provider, the actual outstanding amount of reimbursement due is \$13,938.77. Therefore reimbursement is recommended accordingly.

This Findings and Decision is hereby issued this 18th day of February 2005.

Medical Dispute Resolution Officer  
Medical Review Division

### **III. DECISION & ORDER**

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor **is** entitled to additional reimbursement for CPT code **99199** in the amount of **\$13,938.77**. Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Division hereby **ORDERS** the Respondent to remit **\$13,938.77** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

This Order is hereby issued this 18th day of February 2005.

Medical Dispute Resolution  
Medical Review Division