

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

PART I: GENERAL INFORMATION

Type of Requestor: <input checked="" type="checkbox"/> HCP <input type="checkbox"/> IE <input type="checkbox"/> IC	Response Timely Filed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Requestor's Name and Address Twelve Oaks Medical Center c/o Hollaway & Gumbert 3701 Kirby Drive, Suite 1288 Houston, TX 77098	MDR Tracking No.: M4-05-4110-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address TEXAS MUTUAL INSURANCE CO PO BOX 12029 AUSTIN TX 78711-2029 Austin Commission Representative Box 54	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.: 000055877

PART II: SUMMARY OF DISPUTE AND FINDINGS

Dates of Service		CPT Code(s) or Description	Amount in Dispute	Amount Due
From	To			
2/06/04	2/08/04	Inpatient Hospitalization	\$38,022.76	\$33,392.97

PART III: REQUESTOR'S POSITION SUMMARY

The Requestor has submitted a request for medical dispute resolution for services and treatment provided to ____, ____, during the period 2/06/04 through 2/08/04. To date, a total of \$4,358.65 has been paid in connection with this claim. It is our position that reimbursement was improperly determined pursuant to the acute care inpatient hospital fee guidelines of the Texas Workers' Compensation Commission ("TWCC"). Specifically..., ____, ____, received treatment at our client's facility relating to spinal surgery. Because Mr. ___ admission was inpatient, this claim would be reimbursed pursuant to TWCC Rule 134.401 entitled "Acute Care Inpatient Hospital Fee Guideline." According to Rule 134.401(c)(6), TWCC, this claim would then be reimbursed at the stop-loss rate of 75% as the total audited charges exceed the minimum stop-loss threshold of \$40,000.00. The TWCC established the stop-loss method as an independent reimbursement methodology established to ensure fair and reasonable compensation to the hospital for unusually extensive services rendered during treatment to an injured worker. These records show that Mr. ___ underwent eight (8) operations, summarized on the Operative Report... Rule 134.401(c)(6)(A)(v), the only charges that may be deducted from the total bill are those for personal items, those which are not documented as rendered during the admission, and those not related to the compensable injury. Furthermore, carriers may not exceed the scope of their auditing authority to audit stop-loss claims beyond what is specifically provided for by statute including the deduction of billed implants for separate consideration at cost plus 10%. ... Here to, the carrier provides no basis to support its determination of fair and reasonable reimbursement, as well as failing to identify any of the hospital's charges that are not in conformity with the commission's audit rules; hence, the carrier's reductions are improper under the rules of the TWCC. Furthermore, the medical fee guidelines of the TWCC do not allow the carrier deductions based on their determination of fair and reasonable charges when the commission has established a medical fee guideline setting forth maximum allowable reimbursement to ensure fair and reasonable reimbursement under the stop-loss rule. Therefore, the carrier's use of alternate audit practices to determine fair and reasonable is improper and an attempt to usurp the Commission's established methodology to provide fair and reasonable compensation to hospitals. Under Rule 134.401(c)(6) of the acute care inpatient hospital fee guidelines of the TWCC and the above-referenced SOAH decisions, this claim would be reimbursed at the stop-loss rate of 75% as the total audited charges exceed the minimum stop-loss threshold of \$40,000.00 resulting in a reimbursement of \$42,381.41. Based on the clear wording of the rules of the TWCC and the above-referenced SOAH decision, the carrier is liable for an additional sum owed our client in the amount of \$38,022.76.

PART IV: RESPONDENT'S POSITION SUMMARY

This carrier reimbursed the requester 2 days inpatient surgical per diem per TWCC Rule 134.401 and implants at invoice plus 10%. The Requester has argued that because the charges exceed \$40,000 that 75% is due. It is this carrier's position that this carrier has the right to audit the bill and the post audit charges did not exceed \$40,000. The Texas State Office of Administrative Hearings has found that a carrier has the right to audit a hospital's bills and reimbursement for implant is "Based on cost to the hospital plus 10 percent." They did not support that the supplies were unusually costly or extensive. This carrier has been provided no information to support that the services rendered were unusually costly or extensive. The preamble to TWCC Rule 134.401 states under Stop Loss Provision that "the stop loss threshold chosen increases hospital reimbursement and will ensure fair and reasonable rates for hospitals and ensure access to quality health care for injured workers by providing higher reimbursement for very high cost cases, ensuring that hospitals will continue to treat workers compensation patients." The requester has provided no documentation to support that this was a "very high cost" case. As you can see stop loss is for high cost and not high billed.

PART V: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

This dispute relates to inpatient services provided in hospital setting with reimbursement subject to the provisions of Rule 134.401 (Acute Care Inpatient Hospital Fee Guideline). The hospital has requested reimbursement according to the stop-loss method contained in that rule. Rule 134.401(c)(6) establishes that the stop-loss method is to be used for "unusually costly services." The explanation that follows this paragraph indicates that in order to determine if "unusually costly services" were provided, the admission must not only exceed \$40,000 in total audited charges, but also involve "unusually extensive services."

After reviewing the documentation provided by both parties, it **does** appear that this particular admission involved “unusually extensive services.” In particular, after discussions with the Medical Director and review of documentation submitted, this admission resulted in a hospital stay of 2 days that was “unusually extensive services.” Accordingly, the stop-loss method does apply and the reimbursement is to be based on the stop-loss methodology.

In determining the total audited charges, it must be noted that the insurance carrier has indicated some question regarding the charges for the implantables. The requestor billed \$9,612.45 for the implantables. The carrier paid \$1,891.67 for the implantables based on a cost plus 10% approach. The key issue is what amount would represent the usual and customary charges for these implantables in determining the total audited charges. The requestor did not provide the Commission with any documentation on the actual cost of implantables or how their charges were derived.

Based on a review of numerous medical disputes and our experience, the average markup for implantables in many hospitals is 200%. Since the requestor did not present any documentation supporting their cost or charge, we will apply this average mark-up to the cost amount derived from the carrier's payment in order to determine the amount to use in the total audited charges. Based on a reimbursement of \$1,891.67, it appears that the carrier found that the cost for the implantables was \$1,719.70 (reimbursed amount divided by 110%). This amount multiplied by the average mark-up of 200% results in an audited charge for implantables equal to \$3,439.40.

The audited charges for this admission, excluding implantables, equals \$46,896.09. This amount plus the above calculated audited charges for the implantables equals \$50,335.49, the total audited charges. This amount multiplied by the stop-loss reimbursement factor (75%) results in a workers' compensation reimbursement amount equal to \$37,751.62.

Based on the facts of this situation, the parties' positions, and the application of the provisions of Rule 134.401(c), we find that the health care provider is entitled to a reimbursement amount for these services equal to \$33,392.97.

PART VI: COMMISSION DECISION AND ORDER

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is entitled to additional reimbursement in the amount of \$33,392.97. The Division hereby **ORDERS** the insurance carrier to remit this amount plus all accrued interest due at the time of payment to the Requestor within 20-days of receipt of this Order.

Ordered by:

04-08-05

Authorized Signature

Typed Name

Date of Order

PART VII: YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the Decision and has a right to request a hearing. A request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk within 20 (twenty) days of your receipt of this decision (28 Texas Administrative Code § 148.3). This Decision was mailed to the health care provider and placed in the Austin Representatives box on _____. This Decision is deemed received by you five days after it was mailed and the first working day after the date the Decision was placed in the Austin Representative's box (28 Texas Administrative Code § 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas, 78744 or faxed to (512) 804-4011. A copy of this Decision should be attached to the request.

The party appealing the Division's Decision shall deliver a copy of their written request for a hearing to the opposing party involved in the dispute.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

PART VIII: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision and Order in the Austin Representative's box.

Signature of Insurance Carrier: _____ Date: _____