



## MEDICAL FEE DISPUTE RESOLUTION FINDING & DECISION

### PART I: GENERAL INFORMATION

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| Requestor Name and Address:<br>Nestor Martinez, D.C.<br>6660 Airline Drive<br>Houston, TX 77076 | MFDR Tracking #: M4-07-3437-01           |
|   | Claim #:                                 |
|   | Injured Employee:                        |
| Respondent Name:<br>American Casualty Co. of Reading<br>Rep. Box # 47                           | Date of Injury:                          |
|   | Employer Name: Schuff International Inc. |
|   | Insurance Carrier:#: E3125750            |

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

Texas Labor Code 402.00128(b)(7) titled *General Powers and Duties of Commissioner* authorizes the Commissioner to enter appropriate orders. The Division will resolve medical fee disputes according to Rules 133.305, 133.307, 134.801 (c)(2) and other rules.

1. This dispute relates to procedures/services billed with CPT code(s) 99212, 97110, 97140, 97112 rendered on 01/30/06-02/03/06. The Respondent states "...American Casualty Company of Reading Pennsylvania hereby certifies that it did not receive any billing (Original billing or Request for Reconsideration billing ) for the disputed dates of service. It is not affiliated with ESIS nor is the address submitted in the Requestors D-60 an address for the Carrier. As the Carrier never received billing for the disputed dates, it has no additional documentation for submittal with this response... At this point it appears that the first time that the Carrier actually received these bills is when it received the DWC Form- 60...the provider appears to have no verifiable proof that it timely submitted these bills to the proper carrier and TPA..."

2. Rule 102.4(h), titled General Rules for Non-Commission Communication, states "Unless the great weight of evidence indicates otherwise, written communications shall 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 via 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 shall be the next previous day which is not a Sunday or legal holiday."

3. Section 408.027(a) of the Labor Code states, "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

4. Based on the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code 413.031 and 408.027(a), the Division has determined that the Requestor did not submit convincing evidence to support timely filing.

**PART III: GENERAL PAYMENT POLICIES/REFERENCES**

Texas Labor Code 413.011 (a-d)  
Texas Labor Code 408.027(a)  
28 Texas Administrative Code Sec. §102.4(h)  
28 Texas Administrative Code Sec. §133.305  
28 Texas Administrative Code Sec. §133.307  
28 Texas Administrative Code Sec. §134.801 effective 9/1/05 or 133.20 (b) effective 5/2/06

**PART IV: DIVISION DECISION**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec 413.031 and 408.027(a), the Division has determined that the Requestor is not entitled to reimbursement.

**Decision by:**

04/24/07

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Medical Dispute Resolution Officer

\_\_\_\_\_  
Date

**PART V: YOUR RIGHT TO REQUEST JUDICIAL REVIEW**

If Requestor is dissatisfied with the Respondent's final action on a medical bill, the Requestor may request medical dispute resolution in accordance with Rule 133.305 as long as the request is filed within the appropriate timeframe.

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