



**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

**PART I: GENERAL INFORMATION**

Requestor's Name and Address:  Texas Orthopedic P.O. Box 11527 Houston, TX 77293	MFDR Tracking #:	M4-07-3502-01
	DWC Claim #:	
	Injured Employee:	
Respondent Name and Box #:  American Home Assurance Co Rep Box #: 19	Date of Injury:	
	Employer Name:	SMITH INTERNATIONAL INC
	Insurance Carrier #:	077055703

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

Texas Labor Code 413.011(a-d) titled *Reimbursement Policies and Guidelines* and Division Rule 134.202 titled *Medical Fee Guideline*, effective August 1, 2003, sets out reimbursement guidelines. The Division will resolve medical fee disputes according to Rules 133.305, 133.307, §133.20(b) and other rules.

1. This dispute relates to procedure/service that was billed under CPT code 99214 rendered on 05/25/06, 07/11/06 and 08/08/06 that were denied reimbursement by the insurance carrier based upon "29 – The time limit for filing has expired, 172 – Payment is adjusted when performed/billed by a provider of this specialty."
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. The Requestor did not submit convincing evidence to support position that CMS-1500s were submitted timely to the Respondent per Section 408.027(a).

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

Texas Labor Code 402.00128(b)(7)  
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. §133.20(b)

**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 request was not timely filed and the Requestor has forfeited the right to reimbursement.

**DECISION:**

07/09/07

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

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

\_\_\_\_\_  
Date

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

Appeals of medical dispute resolution decisions and orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. §413.031(k), as amended and effective Sept. 1, 2005]. An appeal to District Court must be filed not later than 30 days after the date on which the decision, that is the subject of the appeal, is final and appealable. The Division is not considered a party to the appeal.

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