

201911003L [Tax Type: Sales] [Document Type: Letter/Memo]

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Texas Comptroller of Public Accounts STAR System

201911003L

ALERT: The effective date of Jan. 1, 2020, to tax medical billing services as insurance services has been extended to April 1, 2020.

DATE: November 22, 2019

TO: Emma Fuentes, Audit Division

FROM: Teresa Bostick, Tax Policy Division

SUBJECT: Medical Billing Services

Issue :

This memo provides notification of a change in agency policy regarding the taxability of medical billing services. Beginning ~~January 1, 2020~~ April 1, 2020, it is agency policy that medical billing services, including those performed prior to submitting a claim to an insurance company, to provide additional information, or to adjust a submitted billing, are taxable insurance services.

Background :

Texas Tax Code Section 151.0101 includes "insurance services" in the list of services subject to Texas sales and use tax. Section 151.0039 defines insurance services as "insurance loss or damage appraisal, insurance inspection, insurance investigation, insurance actuarial analysis or research, insurance claims adjustment or claims processing, or insurance loss prevention service."

Current Rule 3.355(a)(8) defines "insurance claims adjustment or claims processing" as "any activities to supervise, handle, investigate, pay, settle, or adjust claims or losses." Insurance services are taxable when performed pursuant to a policy of insurance regardless of whether the purchaser of the services is

an insurance company, policy holders, or others. Rule 3.355(b); STAR Accession No. 9801459L (Jan. 23, 1998). Neither the statute nor rule specifically address medical billing services.

Medical billing services involve multiple functions. The services may include assigning codes for the preparation of claims, verifying insurance eligibility, preparing claim forms for filing, filing the claim, resubmitting and adjusting claims, reviewing and appealing denied claims, settling claims, and posting payment for a claim.

Until 2002, the agency considered medical billing services as taxable insurance claims adjustment or claims processing, as listed in 151.0039. In 2002, the agency determined that merely completing a form for the insured did not rise to the level of claim processing. STAR Accession No. 200203866L (March 26, 2002). The agency also determined that claim processing does not begin until receipt of a claim by an insurance company. Thus, medical billing services which happened before the claim was submitted were not taxable. STAR Accession No. 200207227L (July 2, 2002).

Statement of Policy :

In non-medical scenarios, the agency has determined broadly that services involving an insurance claim are taxable insurance services. Other than medical billing, the agency has not delineated between services performed before and after receipt of the claim by the insurance company. See STAR Accession Nos. 200211573L (Nov. 13, 2002) (providing that hiring an engineer to examine, inspect, and test products or reconstruct an accident to address liability in a litigation or pre-litigation claim to defend an insured is a taxable insurance service); 9907538L (July 13, 1999) (providing that investigating a loss pertaining to an insurance policy is a taxable insurance service); 9708669L (Aug. 15, 1997) (providing that a mitigation service involving reviewing invoices prior to submittal to the insurance company is insurance claims adjustment or claims processing); 9001L0976A10 (Jan. 24, 1990) (providing that consulting activities provided by a toxicologist or engineer to investigate claims or losses pursuant to a claim against an insurance policy are taxable); 8802L0859C01 (Feb. 2, 1988) (providing that investigating and preparing roof documents, reporting findings on the condition of an existing roof, and reviewing proposed bids may be insurance services).

Neither Section 151.0039 nor Rule 3.355(a)(8) exclude completing a form for the insured for a medical insurance claim from the definition of insurance claims adjustment or claims processing. The Legislature did not narrow the Comptroller's jurisdiction in interpreting insurance services defined under Section 151.0039. STAR Accession No. 9701253L (Jan. 29, 1997).

In Attorney General Opinion JM-1016 (1989), the Attorney General determined that the timing of the engagement of an insurance service provider does not make any difference as long as the services pertain to a policy of insurance. STAR Accession No. 9701253L (Jan. 29, 1997).

The preparation of an insurance claim must occur prior to the claim being submitted to the insurance company. Preparation of a claim is an inherent part of the insurance claim process. Medical billing services to prepare a medical insurance claim for filing constitute insurance claims adjustment or claims processing. Thus, medical billing services are insurance services. This change in policy will be prospective as of ~~Jan. 1, 2020~~ April 1, 2020.

Tax Policy will supersede documents including the following letters as to their statements regarding medical billing services affected by this change in policy:

STAR Accession No. 200203866L (March 26, 2002)
STAR Accession No. 200204983L (April 17, 2002)
STAR Accession No. 200207227L (July 2, 2002)
STAR Accession No. 200212655L (Dec. 3, 2002)
STAR Accession No. 200304838L (April 14, 2003)
STAR Accession No. 200502776L (Feb. 17, 2005)
STAR Accession No. 201807025L (July 16, 2018)

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