



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

TEXAS HEALTH

Respondent Name

ZURICH AMERICAN INSURANCE CO

MFDR Tracking Number

M4-05-8155-02

Carrier's Austin Representative

Box Number 19

MFDR Date Received

MAY 11, 2005

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Texas Health conducted the initial diagnostic interview on 12/9/04. This interview does not require pre-authorization per TWCC Rule 134.600. This interview was necessary in order to determine what treatment path would be needed to best suit [Claimant's] condition...I have attached a TWCC ruling decided on March 17, 2005 which shows the insurance carrier is responsible for 5 units of CPT code 90801....As you can see by the subsequent TWCC note attached, the insurance carrier and the adjuster, Kevin O'Shea, have deemed this injury compensable."

Amount in Dispute: \$1,800.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Per the **IME DR. KARL ERWIN**, the work compensable injury involves only a **LUMBAR AND CERVICAL STRAIN.**"

Response Submitted by: Broadspire

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 9, 2004	CPT Code 90801 Psychiatric Diagnostic Interview Examination	\$1,800.00	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.305 sets forth general provisions regarding dispute of medical bills.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
3. 28 Texas Administrative Code §134.202, titled *Medical Fee Guideline* effective for professional medical services provided on or after August 1, 2003, set out the reimbursement guidelines.
4. 28 Texas Administrative Code §141.1 sets out the procedures for requesting and setting a Benefit Review Conference.

5. EOBs submitted with the requestor's dispute indicate the respondent has raised issues of Compensability, Extent, and/or Liability for date of service December 9, 2004..

Issues

1. Does a compensability, extent, and/or liability issue exist in this dispute?
2. Is the requestor eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307?

Findings

1. According to the explanation of benefits, the respondent denied reimbursement for the disputed service based upon reason code "910-053 R-Extent of injury/body part/Dx/Rx not causally related."

The requestor contends that an extent of injury issue does not exist and that payment is due. In support of their position, the requestor submitted the following:

- November 18, 2004 letter from the Division to claimant that states "Pursuant to my conversation with your adjuster, Kevin O'Shea on November 16, 2004 the cervical and lumbar strains and radiculitis have been accepted. Any treatment prior to August 9, 2004 will be paid. Bills may need to be resubmitted. Issue resolved."
- August 10, 2005 Benefit Dispute Agreement that found:
 - The parties agree the date of maximum medical improvement is 1-31-05 per the designated doctor.
 - The parties agree the impairment rating is 10% per the designated doctor.
- December 22, 2009 Contested Case Hearing Decision and Order that found "The compensable injury of June 15, 2004 does not extend to include disc herniation at L5-S1, disc bulges from L2 through S1, degenerative disc disease of the lumbar spine, lumbar IVD syndrome with (or without) myelopathy, lumbalgia, lumbar radiculopathy/radiculitis, lumbar spine fixation, lumbar segmental joint dysfunction, bilateral S1 joint dysfunction, cervical spine intersegmental joint fixation, cervicalgia, cervical radiculopathy/radiculities, anxiety/depression or other psychological/psychiatric diagnoses."
- The December 9, 2004 Initial Behavioral Medicine Consultation report by Claudia Ramirez, MA, LPC and Phil Bohart, MS, CRC, LPC indicates "TESTING ADMINISTERED: Results of the Beck Depression Inventory-II (BDI-II) Spanish translation and Beck Anxiety Inventory (BAI) Spanish translation revealed the following: a score of 38 on the BDI-II, indicating severe depression and a score of 38 on the BAI that indicate a severe level of anxiety."

According to 28 Texas Administrative Code §133.305(a)(2), "Medical Fee Disputes--Medical Fee Disputes involve a dispute over the amount of payment for health care rendered to an injured employee and determined to be medically necessary and appropriate for treatment of that employee's compensable injury. The dispute is for reasons other than the medical necessity of the care (e.g. based upon the requirements of commission rules or fee guidelines). The dispute is resolved by the commission pursuant to commission rules, including §133.307 of this title (relating to Medical Dispute Resolution of a Medical Fee Dispute)."

28 Texas Administrative Code §133.305(e)(2)(D) goes on to state that "if the carrier has raised a dispute pertaining to liability for the claim, compensability, or extent of injury, in accordance with §124.2 of this title (relating to Carrier Reporting and Notification Requirements), the request for an IRO will be held in abeyance until those disputes have been resolved by a final decision of the commission."

28 Texas Administrative Code §133.307(e)(2)(D) states "if the carrier has raised a dispute pertaining to liability for the claim, compensability, or extent of injury, in accordance with §124.2 of this title (relating to Carrier Reporting and Notification Requirements), the request for an IRO will be held in abeyance until those disputes have been resolved by a final decision of the commission."

A review of the submitted medical records finds that the disputed services were for treatment/assessment of depression and anxiety; therefore the treatments in dispute were rendered for an injury that was found to be non-compensable as discussed above. The requestor rendered health care to this injured employee for the non-compensable "anxiety/depression or other psychological/psychiatric diagnoses"; therefore, no reimbursement can be recommended for the services in dispute

2. The requestor has failed to support that the disputed services rendered on December 9, 2004 is eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature


Signature

Elizabeth Pickle, RHIA
Medical Fee Dispute Resolution Officer

May 9, 2014
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

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

