



# Texas Department of Insurance

## Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645  
518-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

**Requestor Name and Address**

DEPARTMENT OF VETERANS AFFAIRS  
500 N PIEDRAS  
EL PASO TX 79930

**Carrier's Austin Representative Box**  
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**Respondent Name**

FIDELITY & GUARANTY INSURANCE

**MFDR Date Received**

JULY 29, 2011

**MFDR Tracking Number**

M4-11-4480

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "38 USC 1729(f)."

**Amount in Dispute:** \$1,547.55

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary Dated August 22, 2011:** "This matter is not properly submitted as Texas workers' compensation claim. The [REDACTED], injury has been filed and maintained as an Oklahoma claim. Attached is the relevant claim documentation.

**Responses Submitted by:** Flahive, Ogden & Latson

#### SUMMARY OF FINDINGS

Disputed Dates	Disputed Services	Amount In Dispute	Amount Due
August 7, 2009 through September 15, 2009	CPT Codes: 99212, 99281, 73130, 99201, and J8499	\$1,547.55	\$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**

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- Texas Labor Code §406.075, effective September 1, 1993, prohibits claims from other workers compensation jurisdictions from seeking benefit in the Texas Workers Compensation.

**Issues**

Is the requestor entitled to reimbursement?

**Findings**

On July 29, the requestor, Department of Veterans Affairs, sought medical fee dispute resolution under 28 Texas Administrative Code §133.307. The requestor is seeking reimbursement of \$1,547.55 for services rendered on August 7, 2009 through September 15, 2009.

The respondent’s representative, Flahive, Ogden & Latson submitted a response to this request for medical fee dispute resolution on August 22, 2011. The respondent stated “The [REDACTED] injury has been filed and maintained as an Oklahoma claim.” In support of their position, a copy of the Workers Compensation Court Form 2 report supports the respondent’s position that this is a Oklahoma Workers’ Compensation claim.

Texas Labor Code §406.075(a) states “An injured employee who elects to pursue the employee’s remedy under the workers’ compensation laws of another jurisdiction and who recovers benefits under those laws may not recover under this subtitle.” Because the claimant pursued remedy under Oklahoma’s Workers’ Compensation, the requestor is prohibited from seeking recovery under the Texas Workers Compensation per Texas Labor Code §406.075(a). As a result, reimbursement cannot be recommended.

**Conclusion**

For the reasons stated above, the Division finds that reimbursement cannot be recommended.

**Authorized Signature**

		02/19/2014
Signature	Medical Fee Dispute Resolution Officer	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.**