



**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](http://www.tdi.texas.gov)

**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

**GENERAL INFORMATION**

**Requestor Name**

FONDREN ORTHOPEDIC GP LLP

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

July 7, 2014

**Respondent Name**

TEXAS MUTUAL INSURANCE COMPANY

**MFDR Tracking Number**

M4-14-3325-01

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Claim was processed and denied stating provider was not in the network. After researching this denial we were given a verbal for the patient to be seen for an evaluation which was given to us by the adjuster Mandy on 6/13/13. At which point we were not told this was a Network claim. Therefore we feel this claim should be process and payment should be issued to the provider."

**Amount in Dispute:** \$482.02

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Texas Mutual Claim [claim number] is in the Texas Star Network. (Attachment 1) Texas Mutual reviewed its online Texas Star Network provider directory for the requestor's name and for its tax identification number, and found no evidence Dr. T. Fukuda, M.D., is a participant in that Network. Texas Mutual has no evidence the requestor, a non-network provider, received out of network approval to provide treatment. Nor has the requestor provided such evidence in its DWC-60 packet."

**Response Submitted by:** Texas Mutual Insurance Company

**DISPUTED SERVICES SUMMARY**

Dates of Service	Disputed Services	Amount In Dispute	Amount Ordered
July 2, 2013 through July 10, 2013	99213, 29405, Q4038 x 2 and 29405	\$482.02	\$0.00

**BACKGROUND**

1. 28 Texas Administrative Code §133.307, 37 TexReg 3833, applicable to medical fee disputes filed on or after June 1, 2012, sets out the procedures for resolving medical fee disputes.
2. Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks

**FINDINGS AND DECISION**

**Issue**

1. Did the requestor receive approval from the certified network to treat the injured employee?
2. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

**Findings**

The requestor filed this medical fee dispute to the Division asking for resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation to apply Texas Labor Code statutes and rules, including 28 TAC §133.307, is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305. In particular, TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation." The requestor therefore has the burden to prove that the condition(s) outlined in Texas Insurance Code §1305.006 were met in order to be eligible for dispute resolution of the facility services provided. The following are the Division's findings.

- 1. The Texas Insurance Code Section 1305.006 requires, in pertinent part, that "(3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section 1305.103."

The Texas Insurance Code Section 1305.103(e) requires, in pertinent part, that "(e) A treating doctor shall provide health care to the employee for the employee's compensable injury and shall make referrals to other network providers, or request referrals to out-of-network providers if medically necessary services are not available within the network. Referrals to out-of-network providers must be approved by the network..."

The requestor has the burden to prove that it obtained the appropriate referral from the certified network for the out-of-network care it provided. The requestor submitted insufficient documentation to support that an out-of-network referral was obtained from the injured employee's treating doctor and authorized by the certified network. The requestor thereby failed to meet the requirements of Texas Insurance Code Section 1305.006(3).

- 2. The requestor failed to prove in this case that that the requirements of Texas Insurance Code Section 1305.006(3) were met. Consequently, the services in dispute are not eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

***DECISION***

Based upon the documentation submitted by the parties, the Division has determined that this dispute is not eligible for resolution pursuant to 28 Texas Administrative Code §133.307.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Manager

November 6, 2014  
Date

***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request 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 §141.1(d).