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
ANTHONY T.B. TRAN, MD, FACS, PA

Carrier's Austin Representative
Box Number 54

MFDR Date Received
July 23, 2014

Respondent Name
TEXAS MUTUAL INSURANCE COMPANY

MFDR Tracking Number
M4-14-3481-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The disputed fess of $1,360.00 should be paid to Dr. Anthony Tran because the claim was submitted in a timely fashion, all appropriate additional information was provided, and proper procedure and protocol was followed. All line items/medical services provided by Dr. Tran were coded to the best of our knowledge and ability."."

Amount in Dispute: $1,300.00

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. a., Tran, M.D., is a participant in that Network. Further, Texas Mutual has no evidence the requestor , a non-network provider, received out of network approval to provide treatment of 2/14/14. Nor has the requestor provided such evidence in its DWC-60 packet. Because this fee reimbursement dispute involves a Network requirement under the Insurance Code and not the Labor Code, Texas Mutual argues DWC MDR has no jurisdiction in this matter."

Response Submitted by: Texas Mutual Insurance Company

DISPUTED SERVICES SUMMARY

Dates of Service	Disputed Services	Amount In Dispute	Amount Ordered
February 14, 2014	15004, A4223, 10140, A4649, 99080-73, A4550	$1,360.00	$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 statues 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 13, 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).