



# TEXAS DEPARTMENT OF INSURANCE

## Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

UNIVERSAL DME LLC

**Respondent Name**

TEXAS MUTUAL INSURANCE CO

**MFDR Tracking Number**

M4-14-3703-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

August 13, 2014

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "We submitted the claims for payment on several occasions, copy of screen print enclosed for your review. Our claims are now denied for timely filing. We have attached copies of proof of timely filing along with the appeals that were submitted on 06/19/2014. We contacted Tech Health on 07/16/2014 via phone and spoke with Ashuan who advised us that the proof of timely filing print screen was not accepted... It is my understanding that all required components are listed on our screen print. We should be paid for services rendered because we have submitted appropriate proof of timely filing."

**Amount in Dispute:** \$662.49

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "...this dispute, is between TechHealth, a network provider, and the requestor, a participant in TechHealth's network."

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

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services based upon assertions made on the DWC Form-060	Amount In Dispute	Amount Due
September 17, 2013	E0217-NU and L3670-RT	\$662.49	\$644.85

### FINDINGS AND DECISION

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

#### **Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.240 sets out the requirements for medical payments and denial by insurance carriers.
3. 28 Texas Administrative Code §133.240 sets out the requirements for medical payments and denial by insurance carriers.
4. 28 Texas Administrative Code §134.203 sets out the fee guideline for durable medical equipment.
5. Texas Labor Code §408.0284 sets out the requirements for the informal DME networks authorized under SB1322 effective September 1, 2013.

6. 28 Texas Administrative Code §133.307(d)(2)(F) states that “The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review.”

### Issues

1. What type of entity is TechHealth?
2. Is TechHealth an authorized third party administrator for Texas Mutual Insurance Company?
3. Did Texas Mutual Insurance Company or an agent authorized under the applicable Texas Labor Code or Texas Insurance Code provisions take final action on the service in dispute?
4. Is reimbursement due?

### Findings

Documentation found supports that the following occurred during the medical billing process and before this medical fee dispute was filed:

- On or about September 21, 2013, Universal DME submitted a medical bill for the services in dispute to Tech Health.
- Tech Health did not respond to the original bill.
- On or about July 16, 2014, Universal DME contacted Tech Health via phone who was advised that “the proof of timely filing print screen was not accepted.”
- On or about June 19, 2014, Universal DME sent a second bill to TechHealth.
- On or about June 22, 2014, TechHealth responded to Universal DME with “Our records show that your bill has exceeded your contractual timeframes for bill submission.”
- On or about July 28, 2014, TechHealth responded to Universal DME with “Denied...Please find the attached denial letter sent on 6/22/2014.”

These facts will be discussed in the following paragraphs.

1. TechHealth is registered on the division’s webpage as an informal network. Pursuant to Texas Labor Code §408.0284 the term “Informal Network” means “a network that is established under a contract between an insurance carrier or an insurance carrier’s authorized agent and a health care provider for provisions of durable medical equipment or home health care services.” TechHealth **does not** meet the definition of either an “insurance Carrier” or an “insurance company” as defined under Texas Labor Code §401.011(27) and (28) respectively.

(27) “Insurance Carrier” means:

- (A) an insurance company;
- (B) a certified self-insurer for workers’ compensation insurance;
- (C) a certified self-insurance group under Chapter 407A; or
- (D) a governmental entity that self-insures, either individually or collectively.

(28) “Insurance company” means a person authorized and admitted by the Texas Department of Insurance to do insurance business in this state under a certificate of authority that includes authorization to write workers’ compensation insurance.”

TechHealth is a registered informal network and that it is not an insurance carrier, nor is it an insurance company. According to the division’s publicly-available informal network registration records, TechHealth is contracted with TMIC, through TMIC’s agent Coventry, and is authorized to provide durable medical equipment (DME) services through its network of DME providers as stated in Texas Labor Code §408.0284.

2. Insurance carriers have the ability to delegate medical bill processing to a third-party administrator. Any such delegation is required to be made in accordance with Texas Labor Code §406.010, and corresponding Texas Insurance Code Chapter 4151, and Texas Administrative Rules §§7.1601-7.1618. No documentation was found to support that TMIC properly delegated medical bill processing to TechHealth in a manner consistent with the rules established for licensing of TPAs with delegated duties in the workers’ compensation system. Furthermore, review of the list of all licensed third-party administrators on the Texas Department of

Insurance public webpage finds that TechHealth is NOT a registered TPA. Even if TechHealth was properly authorized to perform bill review, ultimate accountability and responsibility for, compliance with all statutory and regulatory requirements under the Labor Code and rules lies with the insurance carrier, TMIC in this case. The division notes that an informal network contract executed pursuant to Texas Labor Code §408.0284 does not authorize the informal networks to perform medical bill review. Specifically, §408.0284 (c) states “Notwithstanding any other provision of this title or any provision of Chapter 1305, Insurance Code, an insurance carrier may pay a health care provider fees for durable medical equipment or home health care services that are inconsistent with the fee guidelines adopted by the commissioner only if the carrier or the carrier's authorized agent has a contract with the health care provider and that contract includes a specific fee schedule.” The authority of the informal network is therefore limited to those functions delegated to it under §408.0284 while the rest of the Labor Code including TPA laws and rules apply. The division concludes that TechHealth did not have the proper authority to perform medical bill review and therefore did not have the authority to deny payment for the service in dispute.

3. As noted above, Texas Mutual Insurance Company is the carrier that covers the injured employee that received the service in dispute. In its position, TMIC contends that:

“...this dispute, is between TechHealth, a network provider, and the requestor, a participant in TechHealth’s network.”

The health care provider in this case provided documentation to support that it was instructed to bill TechHealth. TechHealth responded by denying the bill due to “...exceeded your contractual timeframes for bill submission.” As concluded above, TechHealth lacks the delegated authority to process medical bills; therefore, TMIC, the insurance carrier, was ultimately responsible for taking action on the disputed medical bill consistent with Title 28, Part 2, Chapter 133, Subchapter C. Specifically, 28 Texas Administrative Code §133.240 requires that:

(a) An insurance carrier shall take final action after conducting bill review on a complete medical bill...not later than the 45<sup>th</sup> day after the insurance carrier received a complete medical bill...

(e) The insurance carrier shall send the explanation of benefits in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:

(1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

(f) The paper form of an explanation of benefits under subsection (e) of this section...shall include the following elements :....( 9) insurance carrier’s name and address; (12) diagnosis code; (the CPT, HCPCS, NDC, or other applicable product or service code; (17) (G) the adjustment reason code that conforms to the standards described in §133.500...

No documentation was found to support that an explanation of benefits that complies with the requirements of §133.240(e) and (f) was issued by the insurance carrier or by an entity authorized to process medical bills on the carrier’s behalf.

The division concludes that the carrier failed to take final action on a complete medical bill. Absent any denial, rejection, or other insurance carrier defenses raised that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, including 28 Texas Administrative Code §133.240, the division finds that the service in dispute is eligible for payment.

4. 28 Texas Administrative Code §134.203(d) sets out the fee guideline for durable medical equipment. The payment is established by taking the amount allowable under Medicare’s durable medical equipment (DMEPOS) fee schedule and adjusting it by 125%. Review of the Form DWC-060 provided finds that the E0217-NU and L3670-LT are the only code listed under “Treatment or Service Codes in Dispute.” Additionally, review of the medical bill provided demonstrates that 1 unit of E0271 and 1 unit of L3670-LT were provided on September 17, 2013.

Taking into account the DMEPOS payment policies regarding DME, the payment for the services in dispute are calculated as follows:

- 2013 2<sup>nd</sup> Half Texas DMEPOS Fee Schedule for E0217-NU x 125% = Payment

\$537.54 x 125% = \$671.93

The MAR is \$671.93, the requestor seeks \$519.47, the lesser of is \$519.47, therefore this amount is recommended.

- 2013 2<sup>nd</sup> Half Texas DMEPOS Fee Schedule for L3670-LT x 125% = Payment

\$100.30 x 125% = \$125.38

The MAR is \$125.38, the requestor seeks \$143.02, the lesser of is \$125.38, therefore this amount is recommended.

### Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$644.85.

### **ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS Texas Mutual Insurance Company to remit the amount of \$644.85 plus applicable accrued interest per 28 Texas Administrative Code §134.130 to the requestor, due within 30 days of receipt of this Order.

### Authorized Signature

_____	_____	December 9, 2015
Signature	Medical Fee Dispute Resolution Auditor	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, 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 MFDR 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).

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