



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 SPINE & JOINT HOSPITAL

Carrier's Austin Representative

Box Number 54

MFDR Date Received

September 17, 2014

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

MFDR Tracking Number

M4-15-0264-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Texas Mutual's response states that the claim for this patient is within the Texas Star Network. The Hospital requested authorization from Texas Mutual, and was provided with necessary authorization from Coventry. This authorization was not accompanied by any disclosure from Coventry or Texas Mutual on multiple occasions, and the existence of a Texas Star Network issue was not disclosed until this law firm requested reconsideration, and the Texas Star Network issue was added as the last line on the Explanation of Benefits. The Hospital was provided authorization by Coventry, and provided the medically necessary treatments to the patient. It is our position that the Hospital should be reimbursed accordingly..."

Amount in Dispute: \$16,889.02

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Texas Mutual claim [claim #] is in the Texas Star Network. (Attachment) 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 TEXAS SPINE & JOINT HOSPITAL is a participant in the Network. Further, although the requestor did receive Network preauthorization for the disputed services Texas Mutual has no evidence the requestor, a non-network provider, received out of network approval to provide the preauthorized treatment. Nor has the requestor provided any 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

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Ordered
October 29, 2013	84213	\$16,889.02	\$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, 37 TexReg 3833, applicable to medical fee disputes filed on or after June 1, 2012, sets out the procedures for resolving medical fee disputes.
- Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.

Issues

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

Findings

1. The parties in this medical fee dispute are in agreement that the health care provider that provided the service in dispute is not contracted with the Texas Star Network.

The requestor seeks a decision from the division's medical fee dispute resolution (MFDR) section. The authority for MFDR to resolve matters involving employees enrolled in a health care certified network is conditional. The condition is described in 28 Texas Administrative Code §133.307. Applicable §133.307, 33 TexReg 3954, effective for disputes received on or after May 25, 2008, under paragraph (a) (1) states that "This section applies to a request for medical fee dispute resolution for non-network or **certain authorized out-of-network health care** [emphasis added]..." The division's, medical fee dispute resolution section may address disputes involving health care provided to an employee enrolled in a certified healthcare network only if the out-of-network health care provider obtained a referral from the injured employee's treating doctor and was approved by the certified network to do so.

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 in this dispute has the burden to prove that an out-of-network referral was obtained for the disputed services, pursuant to Texas Insurance Code 1305.103(e), thereby eligible for resolution pursuant to §133.307. The requestor in position statement explains, "The Hospital was provided authorization by Coventry, and provided the medically necessary treatments to the patient. It is our position that the Hospital should be reimbursed accordingly..." The requestor's presumption does not satisfy the burden to prove that the requestor obtained an out-of-network referral from the injured employee's treating doctor and authorized by the certified network to provided the "authorized out-of-network health care" required for review under §133.307. The division concludes that the services in dispute are not eligible for review pursuant to 28 Texas Administrative Code §133.307.

2. Furthermore, the Texas Department of Insurance ("TDI") rules at 28 Texas Administrative Code sections 10.120 through 10.122 address the submission of a complaint by a health care provider, to a workers' compensation health care network ("network"). If the health care provider is dissatisfied with the resolution of such complaint, then it may submit a complaint to TDI. The Requestor in this dispute did not document the filing of such a complaint, or any finding by either the network or TDI as a result of a complaint, that the network had authorized any referral to the requestor for the services provided in this dispute.

Out-of-network health care is defined at Insurance Code Chapter 1305, section 1305.006 titled Insurance Carrier Liability for Out-of-Network Health Care. No documentation was found to support that the health care in dispute is authorized, out-of-network health care pursuant to Insurance Code Chapter 1305. This dispute may **not** be resolved pursuant to 28 Texas Administrative Code §133.307; for that reason, no additional reimbursement can be recommended.

Conclusion

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.

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

Medical Fee Dispute Resolution Officer

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).