



# 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**

Texas MedClinic

**Respondent Name**

State Office of Risk Management

**MFDR Tracking Number**

M4-15-1293-01

**Carrier's Austin Representative**

Box Number 45

**MFDR Date Received**

December 22, 2014

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "It is Texas MedClinic's position that based on Rule §110.108 (c), the lab services that are denied should have been paid because the patient is a state employee. Also, Texas MedClinic is CLIA certified which allows us to bill for lab services."

**Amount in Dispute:** \$144.90

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Pursuant to 28 Texas Administrative Code Rule §122.3 and §122.4, the injured employee is not identified as an emergency medical service employee, paramedic, fire fighter, Law enforcement officer, or correctional office, therefore the requestor was reimbursed pursuant to Rule §122.4 for HIV testing. There has not been evidence submitted to the carrier to show the injured employee was exposed to the additional communicable diseases that the health care provider tested for."

**Response Submitted by:** State Office of Risk Management

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 21, 2014	87340, 86317, 86803, 86703, 84460	\$144.90	\$0.00

### 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 §122.3 sets out the procedures for exposure to communicable diseases.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 16 – Claim/service lacks information which is needed for adjudication

- P13 – Payment reduced or denied based on workers’ compensation jurisdictional regulations or payment policies
- 193 – Original payment decision is being maintained

### **Issues**

1. Are the insurance carrier’s reasons for denial or reduction of payment supported?
2. Is the requestor entitled to additional reimbursement?

### **Findings**

1. The insurance carrier denied disputed services with claim adjustment reason code P13 – “Payment reduced or denied based on workers’ compensation jurisdictional regulations or payment policies.” 28 Texas Administrative Code §122.3 states in pertinent part that “(a) This section applies to all law enforcement officers, fire fighters, emergency medical service employees, paramedics, and correctional officers who are either state employees or employees covered under workers' compensation insurance (to include those who are providing services as a volunteer and are covered by workers' compensation insurance). (b) For purposes of this section "reportable disease" means communicable diseases and health conditions required to be reported to the Texas Department of Health by the Texas Health and Safety Code, §81.041, as amended, including: acquired immune deficiency syndrome (AIDS); amebiasis; anthrax; botulism--adult and infant; brucellosis; campylobacteriosis; chancroid; chickenpox; Chlamydia trachomatis infection; cholera; cryptosporidiosis; dengue; diphtheria; ehrlichiosis; encephalitis; Escherichia coli O157:H7; gonorrhea; Hansen's disease (leprosy); Heamophilus influenzae type b infection, invasive; hantavirus infection; hemolytic uremic syndrome (HUS); hepatitis, acute viral; human immunodeficiency virus (HIV) infection; legionellosis; listeriosis; Lyme disease; malaria; measles (Rubeola); meningitis; meningococcal infection, invasive; mumps; pertussis; plague; poliomyelitis, acute paralytic; rabies in man; relapsing fever; Rocky Mountain spotted fever; rubella (including congenital); salmonellosis, including typhoid fever; shigellosis; streptococcal disease, invasive Group A; syphilis; tetanus; trichinosis; tuberculosis; tuberculosis infection in persons less than 15 years of age; typhus; Vibrio infection; viral hemorrhagic fevers; and yellow fever... (c) An employee listed in subsection (a) of this section will not be entitled to workers' compensation benefits for a reportable disease unless the employee: (1) had a test performed within 10 days of an exposure to the reportable disease that indicated the absence of the reportable disease (Exposure criteria and testing protocol must conform to Texas Department of Health requirements. This rule does not prohibit a decision-maker's consideration of other factors.); and (2) provided the employer with a sworn affidavit of the date and circumstances of the exposure and a copy of the results of the test required by paragraph (1) of this subsection.”

Review of the submitted information finds that;

- a. The injured worker is a health care worker but not an emergency medical service employee or paramedic as required in Rule 122.3(a).
- b. The disputed services were for:
  - i. 86317 – Immunoassay for infectious agent antibody, quantitative, not otherwise specified
  - ii. 87340 – Infectious agent antigen detection by enzyme... hepatitis B surface antigen
  - iii. 86803 – Hepatitis C antibody
  - iv. 84460 – Transferase; alanine amino (ALT) (SGPT)
  - v. 86703 – Antibody; HIV-1 and HIV-2, single result

The Division finds the requirements of Rule 122.3 (d) to be, “The employer's insurance carrier, including state and political subdivision employers, shall be liable for the costs of test(s) required by subsection (c) of this section, regardless of the results of the test(s), ...” however, the insurance carrier is not liable in this instance as the injured worker is not one found in Rule 122.3 (a). The Carrier’s denial is supported.

2. The tests performed are applicable to 28 Texas Administrative Code §122.3 and only separately payable when injured worker meets the definition of “first responder”. This requirement not met. No additional payment is recommended.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

***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	Peggy Miller Medical Fee Dispute Resolution Officer	June 11, 2015 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.**