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
CONSULTANTS IN PAIN MEDICINE

MFDR Tracking Number
M4-15-3029-01

MFDR Date Received
May 18, 2015

Respondent Name
TASB RISK MANAGEMENT FUND

Carrier's Austin Representative
Box Number 47

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "We content [sic] that TASB Risk Management did not apply the 28 Texas Administrative Code Rules and Guidelines when auditing the laboratory services. All the TASB Risk Management denials cite the documentation submitted does not support the level of service... We expect TASB Risk Management to apply the 28 Title Texas Administrative Code and centers of Medicare and Medicaid Service Guidelines and Rules for our claim."

Amount in Dispute: $53.48

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Please note this provider is a member of the Political Subdivision Workers' Compensation Alliance (the Alliance) that was formed pursuant to the labor code 504.053…This provider has been a member since June 5, 2009 and according to contract shall abide by all standards, conditions and procedures as outline in the Alliance Provider Manual…The Fund respectfully requests TDI-DWC dismiss the MFDR since the provider is a member of the Political Subdivision Workers' Compensation Alliance and shall abide by the procedures as outline above."

Response Submitted by: TASB Risk Management Fund

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
August 20, 2014	83925 x 2	$53.48	$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

1. Texas Labor Code Chapter 504 sets out the rights and responsibilities related to *Workers' Compensation Insurance Coverage for Employees of Political Subdivisions.*
2. Texas Labor Code Chapter 413 sets out the rights and responsibilities related to *Medical Dispute Resolution.*
3. 28 Texas Administrative Code §133.307 sets out the requirements for medical fee dispute resolution.

Issues

1. Does the requestor have the right to file for medical fee dispute resolution?
2. Did the requestor support its request for reimbursement?

Findings

1. The respondent in this case asserts that the requestor is contracted with an intergovernmental risk pool (pool) named The Alliance. According to The Alliance's public webpage, *The Alliance* is the trade name for a group of five Texas intergovernmental risk pools ("Pools") that have joined together to exercise the option to directly contract with health care providers for the provision of workers' compensation medical benefits to the injured employees that are members of a political subdivision. Texas Labor Code Chapter 504 titled *Workers' Compensation Insurance Coverage for Employees of Political Subdivisions* authorizes health care providers to contract with intergovernmental risk pools, such as The Alliance. Specifically, Texas Labor Code Sec. 504.053(b) (2) states, in pertinent part:

   > If a political subdivision or a **pool** [emphasis added] determines that a workers' compensation health care network certified under Chapter 1305, Insurance Code, is not available or practical for the political subdivision or pool, the political subdivision or pool may provide medical benefits to its employees or to the injured employees of the members of the pool…(2) by directly contracting with health care providers or by contracting through a health benefits pool established under Chapter 172, Local Government Code.

   A search through the health care provider directory on The Alliance's public web page at http://www.pswca.org/ finds that the requestor *Consultants in Pain Medicine* is listed as a contracted provider. The Division finds that the respondent's assertion that the requestor is contracted with The Alliance is supported.

   The Division now considers whether the requestor has the right to file for medical fee dispute resolution in this case. The Division concluded above that a contract authorized under Sec. 504.053(b) (2) exists between the requestor and the respondent. For this reason, Sec. 504.053 (c) (3) applies and states, in pertinent part:

   > If the political subdivision or **pool** [emphasis added] provides medical benefits in the manner authorized under Subsection (b) (2), the following do not apply… (3) Chapter 413, except for Section 413.042.

   That is, rights granted or provisions contained within Texas Labor Code Chapter 413 titled *Medical Dispute Resolution*, with the exception of 413.042, **do not apply** to health care providers contracted with an intergovernmental risk pool such as The Alliance. Therefore, Sec. 413.031 (c) which is the section that grants health care provider's the right to file for medical fee dispute resolution does not apply. Consequently, the administrative process outlined in 28 Texas Administrative Code §133.307 titled *MDR of Fee Disputes,* established pursuant to Texas Labor Code Sec. 413.031(c), is not available to health care providers contracted with a risk pool as authorized by Sec. 504.053(b)(2).

2. No documentation was found to support that the requestor had the right to file a medical fee dispute in this case. The Division finds that the requestor *Consultants in Pain Medicine*, has failed to demonstrate that it has the right to medical fee dispute pursuant to Texas Labor Code Sec. 413.031(c) and 28 Texas Administrative Code §133.307.

Conclusion

The requestor failed to support its request for reimbursement; as a result, the amount ordered is $0.00.

The Division emphasizes that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution. Even though not all the evidence was discussed, it was considered.

ORDER

Based upon the documentation submitted by the parties, the Division has determined that the requestor does not have the right to medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307. For that reason, the amount ordered is $0.00.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	July 14, 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, 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).

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