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
RYAN BROWNING

MFDR Tracking Number
M4-16-1763-01

MFDR Date Received
February 24, 2016

Respondent Name
SERVICE LLOYDS INSURANCE CO

Carrier's Austin Representative
Box Number 01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Please accept the following Position Statement as required by Rule 133.307 (C)(2)(f).

(F) a position statement of the disputed issue(s) that shall include:

(i) a description of the health care for which payment is in dispute,

FUNCTIONAL CAPACITY EVALUATION

(ii) the requestor's reasoning for why the disputed fee should be paid or refunded,

REQUIRED TESTING REQUESTED BY THE DESIGNATED DOCTOR."

Amount in Dispute: $685.88

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "On 11/30/15, the Requestor submitted a bill, via fascmile, for DOS 11/13/15 – an FCE test. This bill was reviewed and denied in accordance with Certified Network (HCN) rules and rule 133.20. The injured worker is in the Corvel Certified Healthcare Network (HCN). The denial codes included B5 (HCN status) and B20, although B20 was incorrect as the billing provider in box 31 was the rendering provider listed on the FCE report. There is no mention in the report or the billing form that the services rendered was part of a Designated Doctor exam, thus the denial for out of network. See Exhibit A, pages 1-4 (detailed FCE results are not included as they are not relevant).

On 1/4/2016, the Requestor submitted a bill, via fasmile, requesting reconsideration on the original review. The HCP included a copy of the EOB, original billing form with their fax cover sheet simply stating: 'HCP on page 1 of the report & Box 31 are the same – billing is correct – send payment asap.' See Exhibit B, pages 1-5. The Requestor addressed the B20 reason code, but did not address the denial for out of network status (B5). Further, the request for reconsideration did not identify the FCE testing as part of a Designated Doctor exam. As such, the denial continued for non-network status.

Without the HCP identifying the services were being performed in relation to a Designated Doctor exam, the carrier has no way of knowing that the network status of the injured worker is a non-factor."

Response Submitted by: CORVEL

DISPUTED SERVICES SUMMARY

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Ordered
November 13, 2015	CPT Code 97750 x 13	$685.88	$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. 28 Texas Administrative Code §127.10, sets out the general procedures for designated doctor examinations.
2. 28 Texas Administrative Code §133.305, sets out the procedures for resolving medical disputes.
3. 28 Texas Administrative Code §133.307, sets out the procedures for resolving medical fee disputes.
4. 28 Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.

Issue

1. Were the disputed services rendered pursuant to 28 Texas Administrative Code §127.10?
2. Did the Requestor obtain an out-of-network referral from the injured employee's treating doctor that was approved by the network pursuant to Section 1305.103?
3. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

Findings

1. 28 Texas Administrative Code §127.10 states in part "(c) The designated doctor shall perform additional testing when necessary to resolve the issue in question. The designated doctor shall also refer an injured employee to other health care providers when the referral is necessary to resolve the issue in question and the designated doctor is not qualified to fully resolve the issue in question. Any additional testing or referral required for the evaluation is not subject to preauthorization requirements nor shall those services be denied retrospectively based on medical necessity, extent of injury, or compensability in accordance with the Labor Code §408.027 and §413.014, Insurance Code Chapter 1305, or Chapters 10, 19, 133, or 134 of this title (relating to Workers' Compensation Health Care Networks, Agents' Licensing, General Medical Provisions, and Benefits--Guidelines for Medical Services, Charges, and Payments, respectively) but is subject to the requirements of §180.24 of this title (relating to Financial Disclosure). Any additional testing or referral examination and the designated doctor's report must be completed within 15 working days of the designated doctor's physical examination of the injured employee unless the designated doctor receives division approval for additional time before the expiration of the 15 working days. If the injured employee fails or refuses to attend the designated doctor's requested additional testing or referral examination within 15 working days or within the additional time approved by the division, the designated doctor shall complete the doctor's report based on the designated doctor's examination of the injured employee, the medical records received, and other information available to the doctor and indicate the injured employee's failure or refusal to attend the testing or referral examination in the report."
   Review of the submitted documentation finds that the requestor billed for a functional capacity evaluation requested by the designated doctor. Further review of the documentation supports that the requestor is not enrolled in the Texas Star Network.
2. Texas Insurance Code Section 1305.006 states, in pertinent part, "(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 requestor therefore has the burden to prove that the condition(s) outlined in the Texas Insurance Code §1305.006 were met in order to be eligible for dispute resolution. The following are the Division's findings.

   Texas Insurance Code Section 1305.103 requires 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 network shall approve a referral to an out-of-network provider not later than the seventh day after the date on which the referral is requested, or sooner if circumstances and the condition of the employee require expedited approval. If the network denies the referral request, the employee may appeal the decision through the network's complaint process under Subchapter I."
3. The requestor has the burden to prove that it obtained the appropriate approved out-of-network referral for the out-of-network healthcare it provided. Review of the submitted documentation finds that the requestor submitted insufficient documentation and/or no documentation to support that a referral was obtained from the treating doctor and approved by the network to treat the injured employee. The Division concludes that the requestor thereby has failed to meet the requirements of Texas Insurance Code Section 1305.103.

The Division finds that 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

		3/24/16
Signature	Medical Fee Dispute Resolution Officer	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).