



# 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**

JEFF ZHAO DO PA

**MFDR Tracking Number**

M4-16-2712-01

**MFDR Date Received**

May 9, 2016

**Respondent Name**

TASB RISK MANAGEMENT FUND

**Carrier's Austin Representative**

Box Number 47

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The other claim pertaining to this WC case has been paid but this claim continues to deny. We are asking for your assistance in getting this paid."

**Amount in Dispute:** \$812.00

#### 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 August 8, 2007 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
November 17, 2015	99204-25, 20611-RT, J3301 and 99080-73	\$812.00	\$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.
4. 28 Texas Administrative Code §133.305 sets out the procedure for Medical Fee Dispute Resolution.
5. 28 Texas Administrative Code §141.1 sets out the procedures for Requesting and Setting a Benefit Review Conference

## Issues

1. Does the requestor have the right to file for medical fee dispute resolution?
2. Did the requestor support its request for reimbursement?
3. What is the appropriate dispute resolution process for resolving issue(s) of Extent-of-Injury?

## 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.

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, 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.
3. The requestor seeks resolution for CPT Codes 99204, 20611, J3301 and 99080 rendered on November 17, 2015. Review of the submitted documentation finds that the medical fee dispute referenced above contains unresolved issues of extent-of-injury for the same service(s) for which there is a medical fee dispute. The insurance carrier notified the requestor of such issues in its explanation of benefits (EOB) response(s) during the medical bill review process.

28 Texas Administrative Code §133.305(b) requires that extent-of-injury disputes be resolved prior to the submission of a medical fee dispute for the same services. 28 Texas Administrative Code §133.307(f) (3) (C) provides for dismissal of a medical fee dispute if the request for the medical fee dispute contains an unresolved extent-of-injury dispute for the claim. 28 Texas Administrative Code §133.307(c) (2) (K) provides that a request for a medical fee dispute must contain a copy of each EOB related to the dispute. The Division finds that the dispute contains unresolved issues of Extent-of-Injury.

The Division hereby notifies the requestor that the appropriate process to resolve the issue(s) of Extent-of-Injury, including disputes or disagreements among the parties over whether the medical services in dispute were related to the compensable injury, may be found in Chapter 410 of the Texas Labor Code, and 28 Texas Administrative Code §141.1. As a courtesy to the requestor, instructions on how to file for resolution of the extent-of-injury issue are attached.

**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	May 26, 2016 Date
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**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.***

## HOW TO FILE FOR RESOLUTION OF COMPENSABILITY, EXTENT-OF-INJURY AND/OR LIABILITY

A health care provider that chooses to pursue resolution of the Compensability, Extent-of-Injury and/or Liability issue(s) should submit the following **to the field office handling the injured workers claim**:

- Completed DWC Form-045 *Request to Schedule a BRC*, including:
  - Section III. PARTY REQUESTING
    - ✓ 10. Select Sub-claimant
  - Section IV. ISSUE(S) TO BE MEDIATED
    - ✓ 17. Select "Extent-of-injury"
    - ✓ 18. State the following: **"Do any or all of the services provided in the attached medical bill(s) extend to the compensable injury of the injured employee?"**

THIS QUESTION MUST BE ANSWERED AT THE BRC

- Attach to the DWC- Form045:
  - ✓ a copy of the dismissal and this page;
  - ✓ medical bills for date(s) of service: **November 17, 2015**;
  - ✓ **notify the injured employee as required by 28 Texas Administrative Code §140.6 (c)(2)(D), Subclaimant Status; and**
  - ✓ any other information/documentation required in the form instructions.

### Health Care Provider Frequently Asked Questions (FAQ) and Answers

Question: Whom can I call with questions about the dismissal?

Answer: You may contact the dispute resolution officer that issued the notice or MFDR via email at [MDRInquiry@tdi.texas.gov](mailto:MDRInquiry@tdi.texas.gov). Please include the MFDR tracking number in your email.

Question: Why was my dispute dismissed?

Answer: The dispute contained unresolved issues of Compensability, Extent-of-Injury and/or Liability. The Compensability, Extent-of-Injury and/or Liability issue(s) for the date(s) of service in dispute must be resolved prior to determining the fees reimbursement amount(s). MFDR cannot take action on the service date(s) at this time; for that reason, the medical fee dispute was dismissed.

Question: What are my options?

Answer: The healthcare provider has the option to pursue resolution of the, Extent-of-Injury, Compensability and/or Liability issue as instructed above; or provide documents to support that a final decision on, Extent-of-Injury, Compensability and/or Liability was made for the date(s) of service in dispute.

Question: How can I get a copy of a DWC Form-045?

Answer: Go to [www.tdi.texas.gov/wc/forms](http://www.tdi.texas.gov/wc/forms) or call CompConnection at 1-800-372-7713 option 3 if you require a copy by fax or mail.

Question: Whom can I call with questions about completing and filing the DWC Form-045 Request to Schedule a BRC?

Answer: Contact your local field office - <http://www.tdi.texas.gov/wc/dwcccontacts.html>

Question: Can I submit a new dispute or DWC Form-060 after resolution of the, Extent-of-Injury, Compensability and/or Liability issue?

Answer: Yes. The medical fee dispute may be submitted for review as a new dispute. The provider should include any new EOBs, and the final decision on, Extent-of-Injury, Compensability and/or Liability for **date(s) of service in dispute**.

Question: Will my new medical fee dispute or DWC Form-060 be denied if it is filed later than one year?

Answer: If the healthcare provider submits documents to support that a final decision on, Extent-of-Injury, Compensability and/or Liability was made for the **date(s) of service in dispute**, the one-year filing deadline does not apply. The provider is responsible for filing the dispute no later than 60-days after it receives a final decision on, Extent-of-Injury, Compensability and/or Liability for the date(s) of service in dispute.