



# 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**

ORTHOPAEDIC ASSOCIATES LLP

**MFDR Tracking Number**

M4-16-2818-01

**MFDR Date Received**

May 13, 2016

**Respondent Name**

HOUSTON ISD

**Carrier's Austin Representative**

Box Number 44

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "It is our position that the services occurring outside of the authorized dates should not prevent the Physician from obtaining proper reimbursement. As noted on the letter, representations were made that the authorization dates would be extended. Additionally, had the dates not been extended, the Physician still provided the exact procedure which was authorized and should not be prohibited from being paid by CCMSI due to a scheduling."

**Amount in Dispute:** \$18,035.50

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Pursuant to §504.053, Houston ISD provides treatment to their injured workers through a panel of providers. The Medical Review Division does not have jurisdiction to address this dispute pursuant to 28 Tex. Admin. Code §133.307. The claim in this matter is to be adjudicated via contract with HISD in accordance with 504.053. Texas Labor Code chapter 504 titled Workers' Compensation Insurance Coverage for Employees of Political Subdivisions authorizes healthcare providers to contract with intergovernmental risk pools... Respondent asserts this requestor cannot have this dispute determined through medical fee dispute resolution under 133.307 as the treatment at issue was rendered to an injured employee who is enrolled in a panel of providers pursuant to section 504.053. For this reason, section 504.053 (c)(3) applies..."

**Response Submitted by:** Thornton Biechlin Reynolds & Guerra

#### SUMMARY OF FINDINGS

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
May 14, 2015	Professional Services	\$18,035.50	\$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 the following, "...the requestor cannot have this dispute determined through medical fee dispute resolution under 133.307 as the treatment at issue was rendered to and injured employee who is enrolled in a panel of providers pursuant to section 504.053. Texas Labor Code Chapter 504 titled *Workers' Compensation Insurance Coverage for Employees of Political Subdivisions* authorizes health care providers to contract with intergovernmental risk pool. 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 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 pools. Therefore, Sec. 413.031 (c) which is the section that grants health care providers 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.

**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	June 3, 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.***