



## 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**

Nexus Health Systems

**Respondent Name**

Graphic Arts Mutual Insurance Company

**MFDR Tracking Number**

M4-17-1762-01

**Carrier's Austin Representative**

Box Number 1

**MFDR Date Received**

February 8, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "According to the Texas Administrative Code, Medical reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with: 1. The Division's fee guideline; 2. A negotiated contract; or 3. In the absence of an acceptable fee guideline or negotiated contract, fair and reasonable amount as specified in subsection (f) of this section...Altogether, this document supports Nexus' contractual right to be reimbursed at 100% of its standard rate billed charges for each bill that Utica did not pay in full within the 45 days of receipt."

**Amount in Dispute:** \$162,628.70

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "For any dates of service prior to February 16, 2016, [Nexus Health Care System's] request for medical fee dispute was not timely filed...Rule 133.307 requires that a request for medical fee dispute must be filed no later than one year after the date of service was rendered...In accordance with DWC Rule 133.250, a health care provider may request that a carrier reconsider its final action...Further, Rule 133.250 allows a health care provider to request medical dispute resolution (MDR) if it is dissatisfied with the carrier's final action...after reconsideration. A timely submitted request for reconsideration is an administrative prerequisite before a health care provider can avail itself of the medical dispute resolution process."

**Response Submitted by:** Utica National Insurance Group

### SUMMARY OF FINDINGS

Dates of Service Asserted by the Requestor	Disputed Services	Order	DWC Conclusion Summary
May 26, 2015 through February 4, 2016	Treatment for brain injury	\$0.00	Untimely Filed Waived Right to Fee Dispute Resolution; Not ripe for Fee Dispute Resolution
February 8, 2016 through October 31, 2016	Treatment for brain injury	\$0.00	Not ripe for Fee Dispute Resolution

## ***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. Title 28, Part 2, Chapter 133, Subchapter D, Rule §133.307 sets out the administrative requirements for filing of a medical fee dispute.
2. Title 28, Part 2, Chapter 133, Subchapter C, Rule §133.250 sets out the requirement for reconsideration prior to filing for medical fee dispute resolution.
3. NOTE: The explanation of benefits provided by the requestor were illegible.

### **Findings**

The medical fee dispute resolution program resolves disputes over payment of medical bills. Health care providers are responsible taking certain actions *before* filing for medical fee dispute resolution. These actions include, but are not limited to: (1) billing the carrier for the services; (2) asking the carrier for reconsideration of the final action taken by the carrier on the originally filed medical bills; and (4) allowing the carrier 30 days to respond to the request for reconsideration.<sup>1</sup> The requestor has the burden to prove that it took these actions before filing for medical fee dispute resolution.

Additionally, health care providers waive the right to medical fee dispute resolution if a fee dispute is filed *after* the Division's one year filing deadline, with few exceptions.

The Division now reviews the information and documentation provided by requestors Nexus Specialty Hospital and Touchstone Neurorecovery Center, hereafter collectively referred to as Nexus Health Systems, to determine whether this fee dispute is ripe for medical fee dispute resolution.

1. 28 Texas Administrative Code §133.307(c)(1)(A) states that fee disputes filed later than one year **after** the date(s) of service in dispute are untimely. Furthermore, Rule §133.307(c)(1) states, in pertinent part, that a requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. Although there are exceptions to the one year filing deadline, Nexus Health Systems failed to articulate or assert any of those exceptions. The Division concludes that Nexus Health Systems has waived its right to medical fee dispute resolution for dates of service May 26, 2015 through February 4, 2016.
2. The requirement for health care providers to seek reconsideration of a medical bill **before** filing for fee dispute resolution is found at 28 Texas Administrative Code §133.250 which states, in pertinent part, that if the health care provider is dissatisfied with the insurance carrier's final action on a medical bill **after reconsideration**, the health care provider may then request medical dispute resolution in accordance with the provisions of [Chapter 133, Subchapter D of this title \(relating to Dispute of Medical Bills\)](#). Nexus Health Systems has failed to meet its burden to prove that it sought reconsideration for the services in dispute prior to filing this medical fee dispute. Absent any evidence from the requestor that reconsideration was sought, the Division finds that these services are not eligible for review.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not met the requirements for filing a medical fee dispute. As a result, the amount ordered is \$0.00.

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<sup>1</sup> 28 Texas Administrative Code §133.250 (j) If the health care provider is dissatisfied with the insurance carrier's final action on a medical bill after reconsideration, the health care provider may request medical dispute resolution in accordance with the provisions of Chapter 133, Subchapter D of this title (relating to Dispute of Medical Bills).

## ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the division hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

### Authorized Signature

_____	_____	October 24, 2017
Signature	Medical Fee Dispute Resolution Director	Date

### **YOUR RIGHT TO APPEAL**

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §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 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. **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.**