



# 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**

Ahmed Khalifa, M.D.

**Respondent Name**

Texas Mutual Insurance Company

**MFDR Tracking Number**

M4-17-3779-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

August 22, 2017

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "CERTIFYING EXAMINATION INCORRECT REDUCTION"

**Amount in Dispute:** \$650.00

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Texas Mutual claim ... and AHMED A KHALIFA MD PA are participants in the Texas Star Network ... Because this is network healthcare Rule 133.307 does not apply. Rather, the requestor should access Complaint Resolution through Coventry Workers' Comp Services."

**Response Submitted by:** Texas Mutual Insurance Company

### SUMMARY OF FINDINGS

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
September 15, 2016	Referral Doctor Examination to Determine Maximum Medical Improvement & Impairment Rating	\$650.00	\$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. 28 Texas Administrative Code §133.305 sets out the procedures for resolving medical disputes.
2. Texas Insurance Code Chapter 1305 applies to Health Care Certified Networks.
3. 28 Texas Administrative Codes §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network.

#### **Issues**

1. Did the in-network healthcare provider render services to an in-network injured employee?
2. Is the requestor eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.305?

3. What may be the appropriate administrative remedy to address fee matters related to health care certified networks?

**Findings**

1. Ahmed Khalifa, M.D. billed for a referral doctor examination to determine maximum medical improvement and impairment rating rendered on September 15, 2016 to an injured employee enrolled in a certified healthcare network. Texas Mutual Insurance Company’s (Texas Mutual) response indicates that both the healthcare provider and the injured employee are enrolled in a certified healthcare network. Based on submitted documentation, the division finds that the disputed services were rendered by an in-network healthcare provider to an in-network injured employee.
2. The requestor seeks a decision regarding this fee dispute from the division’s medical fee dispute resolution (MFDR) section. The authority for MFDR to resolve matters involving employees enrolled in a certified health care network is conditional. 28 Texas Administrative Code §133.305(a)(4) defines a medical fee dispute as

A dispute that involves an amount of payment for **non-network** health care rendered to an injured employee that has been determined to be medically necessary and appropriate for treatment of that injured employee's compensable injury. The dispute is resolved by the Division pursuant to Division rules, including §133.307 of this title (relating to MDR of Fee Disputes).

The division defines non-network health care in paragraph (a)(6) of the same rule as “Health care not delivered or arranged by a certified workers' compensation health care network as defined in Insurance Code Chapter 1305 and related rules ...” That is, the division’s medical fee dispute resolution section may address disputes involving health care provided to an injured employee enrolled in a health care network only if the out-of-network health care provider was authorized by the certified network to do so.

Because the services in question involve in-network health care, Dr. Khalifa is not eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.305

3. The Texas Department of Insurance (TDI) rules found in 28 Texas Administrative Codes §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network. The division finds that the disputed services rendered by an in-network healthcare provider to an in-network injured employee may be filed through the TDI Complaint Resolution Process if the health care provider is dissatisfied with the outcome of the network complaint process. The complaint process outlined in Texas Insurance Code Subchapter I, §1305.401 - §1305.405 may be the appropriate administrative remedy to address fee matters related to health care certified networks.

**Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution. This finding is based upon a review of all the evidence presented by the parties in this dispute. Even though not all the evidence was discussed, it was considered. The Division finds that this dispute is not eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307.

***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Laurie Garnes  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
October 19, 2017  
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).