



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

MILLENNIUM CHIROPRACTIC

Respondent Name

DALLAS COUNTY COMMUNITY COLLEGE

MFDR Tracking Number

M4-18-2174

Carrier's Austin Representative

Box Number 29

MFDR Date Received

February 22, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "we had preauthorization for treatment of a . . . The carrier approved my request in light of those facts. In other words, they agreed that treatment for the pain caused by the compensable was medically necessary."

Amount in Dispute: \$13,000.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "pursuant to the rule most of the bills were improperly submitted . . . Carrier denies the services preauthorized by the Utilization Review were necessary as a result of the compensable injury."

Response Submitted by: Quintairos, Prieto, Wood & Boyer, P.A.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Dispute Amount	Amount Due
January 31, 2017 to May 2, 2017	Chronic Pain Management: 97799-CP	\$13,000.00	\$9,900.00

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

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.210 sets out the fee guideline for Workers' Compensation specific services.
- 28 Texas Administrative Code §124.2 sets out requirements relating to carrier reporting and notification.
- 28 Texas Administrative Code §133.240 sets out provisions regarding medical payments and denials.
- 28 Texas Administrative Code §134.600 sets out rules regarding preauthorization of health care.
- Texas Labor Code §409.021 sets out requirements for insurance carriers to initiate or refuse to pay benefits.
- This request for medical fee dispute resolution was originally dismissed by the division's MFDR Section on June 6, 2018; however, that dismissal was withdrawn on June 18, 2018 and the dispute was re-opened for review.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - T216 – Based on the findings of a review organization. Peer Review or RME.
 - T219 – Extent of injury. Not finally adjudicated.
 - P12 – Workers' compensation jurisdictional fee schedule adjustment.

- 0B – Payment is 80 percent of the MAR for a CARF-accredited program. Documentation of CARF-accreditation for the program must be provided.
- T167 – This (these) diagnosis(es) is (are) not covered.
- T250 – Reviewed per clients instructions.
- T218 – Entitlement to benefits. Not finally adjudicated.
- P6 – Based on entitlement to benefits.

Issues

1. Has the requestor waived the right to medical fee dispute resolution for failure to timely file the MFDR request?
2. Are there any unresolved issues of compensability, extent of injury, or liability?
3. Are there any unresolved issues of medical necessity?
4. What is the recommended payment for the services in dispute?
5. Is the requestor entitled to additional reimbursement?

Findings

1. 28 Texas Administrative Code §133.307(c)(1) requires that a requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR.

Rule §133.307(c)(1)(A) further requires that a request for MFDR that does not meet any exceptions listed in Rule §133.307(c)(1)(B), be filed no later than one year after the dates of service in dispute.

The disputed dates of service extend from January 31, 2017 to May 2, 2017. The request for medical fee dispute resolution (MFDR) was received in the division's MFDR Section on February 22, 2018. This date is later than one year after disputed dates of service January 31, 2017 to February 21, 2017.

Review of the submitted information finds the services do not involve issues identified in Rule §133.307(c)(1)(B). Consequently, the MFDR request for dates of service January 31, 2017 to February 21, 2017 was not timely filed with the division. The requestor has thus waived the right to MFDR for these services.

However, the requestor timely filed the MFDR request for dates of service from February 22, 2017 to May 2, 2017. Accordingly, these services are eligible for review.

2. The insurance carrier denied disputed services with claim adjustment reason codes:

- T219 – Extent of injury. Not finally adjudicated.
- T167 – This (these) diagnosis(es) is (are) not covered.
- T218 – Entitlement to benefits. Not finally adjudicated.
- P6 – Based on entitlement to benefits.

Rule §133.307(d)(2)(F) requires that if the response includes unresolved issues of compensability, extent of injury, liability, or medical necessity, the request for MFDR will be dismissed.

Rule §124.2(h) requires notification to the division and claimant of any dispute of disability or extent of injury using plain language notices with language and content prescribed by the division. Such notices "shall provide a full and complete statement describing the carrier's action and its reason(s) for such action. The statement must contain sufficient claim-specific substantive information to enable the employee/legal beneficiary to understand the carrier's position or action taken on the claim."

Rule §133.307(d)(2)(H) further requires that If the medical fee dispute involves compensability, extent of injury, or liability, the insurance carrier shall attach a copy of any related Plain Language Notice in accordance with Rule §124.2 (relating to carrier reporting and notification requirements).

The respondent submitted copies of plain language notice forms dated February 16, 2016 and December 9, 2016 disputing issues and refusing to pay benefits relating to the compensability and extent of injury.

Millennium Chiropractic asserts all outstanding issues were resolved before the service dates by a contested case hearing, as supported by a copy of the contested case hearing decision, issued December 28, 2016.

That decision resolved outstanding compensability issues for all conditions considered during the hearing, placing each condition in one of three categories: (1) uncontested conditions accepted by the carrier as part of the injury; (2) contested conditions found to be compensable; and (3) contested conditions found to be non-compensable.

The services in dispute were rendered *after* the date of the hearing decision, which had *resolved* all issues listed in the attached plain language notices. Rule §133.307(d)(2)(H) requires the carrier response to include copies of any related plain language notices issued in accordance with Rule §124.2. The plain language notice (PLN-11) contains information necessary to establish whether the condition or injury related to the denial of payment is unresolved.

Review of the submitted documents finds no copies of any subsequent PLN-11's or plain language notices describing *new* or *different* conditions for which the carrier was contesting compensability at the time it denied payment for the disputed services based on extent of injury. The carrier thus failed to meet the requirements of Rule §133.307(d)(2)(H) regarding any issues of compensability it asserts were *unresolved* at the time of treatment and has waived the right to raise such issues. The division concludes there are no *unresolved* issues of compensability related to the disputed services.

Regarding the compensability issues previously *resolved* by the contested case hearing decision, the carrier has not specified which (if any) conditions that the hearing officer found non-compensable were treated by the provider as part of the services for which the carrier denied payment based on extent of injury. Consequently, the division concludes there are no unresolved issues of extent of injury related to the disputed services.

The division thus finds the carrier failed to: (1) *identify* the *condition or injury* treated as part of the services for which it denied payment based on extent of injury; and (2) support that there remain *any unresolved issues* of compensability or extent of injury related to the disputed services.

The above denial reasons are not supported. Accordingly, the division concludes there are no unresolved issues of compensability, extent of injury, or liability related to the services in this dispute.

3. The insurance carrier denied disputed services with claim adjustment reason code:

- T216 – Based on the findings of a review organization. Peer Review or RME.

The peer review is dated November 22, 2016, *before* the disputed services were performed. The peer review report involves a *prospective* review of proposed services that are not the same services involved in this medical fee dispute. The peer review was not performed as a *retrospective* review of the medical necessity for the disputed chronic pain management services performed from February 22, 2017 to May 2, 2017. As the peer review is unrelated to the disputed services, this denial reason is not supported.

Furthermore, the submitted information supports the health care provider obtained preauthorization for disputed services. Rule §133.240(b) requires that the insurance carrier shall not deny reimbursement based on medical necessity for health care preauthorized or voluntarily certified under Chapter 134.

Moreover, Rule §134.600(l) requires that the insurance carrier shall not withdraw a preauthorization or concurrent utilization review approval once issued.

The insurance carrier has failed to support the above denial reason. Accordingly, the division concludes there are no outstanding issues of medical necessity. The disputed services will therefore be reviewed for payment in accordance with division rules and fee guidelines.

4. This dispute regards chronic pain management services with reimbursement subject to the *Medical Fee Guideline for Workers' Compensation Specific Services*, Rule §134.210 (5)(B), requiring that reimbursement for chronic pain management services “shall be \$125 per hour.” Rule §134.210(1)(B) further requires that “If the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR.”

The services were not billed with a CARF-accreditation modifier; therefore, reimbursement is calculated at 80 percent of \$125 per unit, or \$100 per hour.

Reimbursement is calculated as follows:

- For code 97799-CP (February 22, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (February 23, 2017) 6 hours, reimbursement is \$600.00

- For code 97799-CP (February 28, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (March 1, 2017) 4 hours, reimbursement is \$400.00
- For code 97799-CP (March 2, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (March 8, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (March 9, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (March 14, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (March 15, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (March 16, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (March 21, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (March 23, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (April 17, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (April 18, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (April 20, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (April 25, 2017) 6 hours, reimbursement is \$600.00
- For code 97799-CP (April 26, 2017) 4 hours, reimbursement is \$400.00
- For code 97799-CP (May 2, 2017) 4 hours, reimbursement is \$400.00

5. The total allowable reimbursement for the services in dispute is \$10,200.00. The insurance carrier paid \$300.00. The amount remaining due to the requestor is \$9,900.00

Conclusion

In resolving disputes regarding the amount of payment due for health care determined to be medically necessary and appropriate for treatment of a compensable injury, the role of the division is to adjudicate the payment, given the relevant statutory provisions and division rules.

The division emphasizes that the findings in this decision are based on the evidence presented by the requestor and respondent available at the time of review. Even though not all the evidence was discussed, it was considered.

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$9,900.00

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined that the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$9,900.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature	Grayson Richardson Medical Fee Dispute Resolution Officer	October 26, 2018 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 Rule §133.307.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form DWCO45M) in accordance with the form’s instructions. 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 on the form, or to the field office handling the claim.

A party seeking review of this decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. The request must include a copy of this *Medical Fee Dispute 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.