



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645
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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION
GENERAL INFORMATION

Requestor Name

IKECHUKWU JOHN OBIH MD

MFDR Tracking Number

M4-19-3951-01

MFDR Date Received

April 26, 2019

Respondent Name

FCCI INSURANCE COMPANY

Carrier's Austin Representative

Box Number 01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Our office has no record of the patient having a previous EMG. Since there is no record of an EMG for the patient, preauthorization is not required for this first EMG."

Amount in Dispute: \$895.04

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This is a network claim. The applicable network is the Coventry Health Care Network. Under the Texas Workers' Compensation Health Care Network Act, network medical fee disputes are governed under the network's complaint system... This case also involves an unresolved issue related to the extent of the compensable injury... The services at issue require preauthorization under the applicable network rules. Dr. Obih failed to provide documentation evidencing he obtained preauthorization for the disputed services. Preauthorization for the services was requested by Johnathan Duncan, M.D. (not Dr. Obih). However, preauthorization was denied. Therefore, FCCI is not liable for reimbursement"

Response Submitted by: Burns Anderson Jury & Brenner, LLP

SUMMARY OF FINDINGS

Table with 4 columns: Date(s) of Service, Disputed Service(s), Amount in Dispute, Amount Due. Row 1: October 2, 2018, 99204, 95886, 95910, A4556 and A4215, \$895.04, \$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. 28 Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.
3. 28 Texas Administrative Code §§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. The requestor billed CPT Code(s) 99204, 95886, 95910, A4556 and A4215 rendered on October 2, 2018. Documentation provided by the parties indicates that the insurance carrier denied payment to the requestor due to an unresolved extent of injury issue. The carrier's explanation of benefits was timely presented to the requestor in the manner required by 28 Texas Administrative Code §133.240.

28 Texas Administrative Code §133.305(b) states that if a dispute regarding extent of injury exists for the same service for which there is a medical fee dispute, the dispute regarding extent of injury shall be resolved prior to the submission of a medical fee dispute.

The service in dispute contains an unresolved extent of injury issue. For that reason, this matter is not eligible for adjudication of a medical fee under 28 Texas Administrative Code §133.307.

2. Documentation provided by the insurance carrier supports that the requestor and the injured employee are both participants in a certified health care network. The requestor filed this medical fee dispute to the Division asking for resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation is to apply Texas Labor Code statutes and rules, including 28 TAC §133.307, is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305.

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 Divisions medical fee dispute resolution section, may address disputes involving health care provided to an injured employee enrolled in an HCN, only if the out-of-network health care provider was authorized by the certified network to do so. The Division finds that this is not an out-of-network situation, as a result, the medical fee dispute is not eligible for medical fee dispute resolution review under 28 Texas Administrative Code §133.307.

Notice

1. The Division hereby notifies the requestor that the appropriate process to resolve the extent of injury issue is found a Texas Labor Code, Chapter 410, and corresponding 28 Texas Administrative Code §141.1. The requestor may choose to file the required DWC Form-045 titled *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference (BRC)* to resolve this matter. A copy of the form and corresponding instructions are attached.
2. The TDI rules at 28 Texas Administrative Code §§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 facility to an in-network injured employee may be filed to the Texas Department of Insurance's (TDI) Complaint Resolution Process, if the health care provider or facility 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.

M4-19-3951-01 is hereby dismissed pursuant to §133.307(f) (3) (C)

SIGNED this 22nd day of May 2019

Medical Fee Dispute Resolution Officer

RIGHTS

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.

Questions? Call CompConnection for HealthCare providers, toll free at (800) 252-7031 option 3.