



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

MARY H. LERMAN PHD

MFDR Tracking Number

M4-20-0109-01

MFDR Date Received

September 10, 2019

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

Carrier's Austin Representative

Box Number 54

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "In March of 2019, my office was contacted by a case worker from Texas Mutual. She asked if the patient was released from care and when emphatically told 'no', she said the case was reopened and requested we resume treatment. There was no mention about the need for a pre-authorization form to be completed... A claim for services was submitted to your claims department on 5/01/19 for dates of service between 3/25 and 5/01. On 5/26/19 we received a denial notice for these dates due to a 'lack of pre-authorization.'... We now have 12 dates of service that remain unprocessed with the most recent claim covering dates between 5/08 and 6/12. Somehow, we have been caught up in an internal miscommunication issue with your case management office and claims department. The billed service were provided in good faith based on the direction of the case worker and subsequently her supervisor, who apparently did not notify the claims department."

Amount in Dispute: \$2,623.92

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Texas Mutual claim [claim number] is a participant in the WorkWell Network. (Attachment). Treatment/services rendered to the patient requires preauthorization for psychotherapy (90387). Preauthorization was not obtained for therapy for disputed dates. Preauth for the provider/facility was not effective until 6/24/19 (Attachment). The provider submitted a preauthorization in the DWC60 packet, however the dates of services approved were for 8/27/18-11/27/18 (not the dispute dates of service)."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY DISPUTED SERVICES

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Ordered
March 25, 2019 through June 12, 2019	90837 x 12	\$2,623.92	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code (TLC) §413.031 and all-applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Background

1. 28 Texas Administrative Code (TAC) §133.307, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Insurance Code (TIC) Chapter 1305 applicable to Health Care Certified Networks.

3. The services in dispute were denied by the respondent with reason code(s):
 - CAC-197 – Precertification/authorization/notification absent
 - D26 – Approved non network provider for WorkWell, TX Network claimant per rule 1305.153(C)
 - 786 – Denied for lack of preauthorization or preauthorization denial in accordance with the network contract

Issue

1. Did the requestor obtain approval from the certified network to treat the injured employee?
2. Is this dispute eligible for medical fee dispute resolution pursuant to 28 TAC §133.307?

Findings

1. The requestor filed this medical fee dispute to the DWC asking for resolution pursuant to 28 TAC §133.307 titled *MDR of Fee Disputes*. The authority of the DWC of Workers’ Compensation to resolve matters involving employees enrolled in a certified health care network is limited to the conditions outlined in the applicable portions of the TIC, Chapter 1305 and limited application of TLC statutes and rules, including 28 TAC §133.307.

TIC §1305.106 provides that “An insurance carrier that establishes or contracts with a network is liable for the following **out-of-network** health care that is provided to an injured employee... (3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section [1305.103](#).”

TIC §1305.153 (c) provides that “Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation.”

Review of the preauthorization letters issued by Coventry dated August 27, 2018 and June 24, 2019 document the following:

Preauthorization letter dated: August 27, 2018

Certified Service Description	State Date	End Date	Certified Quantity
Psychotherapy 2/week for 6 weeks	08/27/18	11/27/18	12 Cognitive Therapy

Preauthorization letter dated: June 24, 2019

Certified Service Description	Certified Quantity	State Date	End Date
Psychotherapy 1 x Wk x 24 Wks 90837	24	06/24/19	01/24/20

The DWC finds that the requestor obtained an out-of-network referral, however, did not obtain preauthorization for the treatment rendered on March 25, 2019 through June 12, 2019. As a result, the disputed services are not eligible for medical fee dispute resolution. The DWC finds that adjudicating the disputed service would involve enforcing a law, regulation, or other provision for the disputed service(s), provided to an in-network injured employee. The DWC finds the disputed services are not under the jurisdiction of the DWC and therefore, are not eligible for medical fee dispute resolution under 28 TAC §133.307.

2. The DWC finds that the disputed services were rendered to an in-network injured employee. The TDI rules at 28 TAC §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network. The DWC finds that the disputed services may be filed to the 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 TIC Subchapter I, §1305.401 - §1305.405 and may be the appropriate administrative remedy to address matters related to health care certified networks.

Conclusion

The DWC would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution. Even though all the evidence was not discussed, it was considered. The DWC finds the disputed services are not under the jurisdiction of the DWC and therefore, are not eligible for medical fee dispute resolution under 28 TAC §133.307.

DECISION

Based upon the documentation submitted by the parties, the DWC has determined that this dispute is not eligible for resolution pursuant to 28 TAC §133.307.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

Date

October 10, 2019

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 TAC §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 DWC within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the DWC 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 DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 TAC §141.1(d).