



# 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**

CORPUS CHRISTI OUTPATIENT SURGERY CENTER

**Respondent Name**

TEXAS PUBLIC SCHOOL WC PROJECT

**MFDR Tracking Number**

M4-20-0366-01

**Carrier's Austin Representative**

Box Number 01

**MFDR Date Received**

October 8, 2019

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "Creative Risk Funding has denied reimbursement for this billed procedure based on extent of injury as a PLN 11 was filed. However, after reconsideration we submitted was denied for payment, a BRC was then placed. At the BRC our facility and Workers Comp. Carrier Creative Risk agreed to have the performed surgeon."

**Amount in Dispute:** \$7,603.28

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Despite the fact CRF has no accepted the compensability of these conditions, Surgery Center failed to identify or include these diagnoses in its preauthorization request. For the Reasons listed above, Surgery Center is not entitled to reimbursement for the disputed services rendered in this claim."

**Response Submitted by:** Creative Risk Funding

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
July 11, 2018	27698 and 29898	\$7,603.28	\$0.00

### FINDINGS AND DECISION

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

**Background**

- 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:

Explanation of Benefit

- 219 – Based on extent of injury
- 197 – Payment denied/reduced for absence of precertification/authorization
- 216 – Based on the findings of a review organization
- 284 – Precertification/authorization/notification/pre-treatment number may be vailed but does not apply to the billed services

- Notes: Diagnosis codes and one CPT code do not match preauthorization. Additionally, peer review and PLN 11. Attached for provider

## Issues

1. Did the insurance carrier affirm the CEL denial?
2. Did the requestor meet the requirements of 28 TAC §133.307 (c)?
3. Did the requestor waive the right to medical fee dispute resolution?

## Findings

1. Review of the documentation submitted with the DWCO60 request documents that the insurance carrier denied the disputed services with denial reduction code “219- Based on extent of injury” and “197- Payment denied/ reduced for absence of precertification/authorization.”

Review of the respondents position summary states in pertinent part, “Although CRF disputed the services in part based on extent of injury, the parties were able to resolve this issue following a Benefit Review Conference held on September 23, 2019. The compensable injury is now identified in an amended PLN-11 dated October 3, 2019 (see attached). The amended PLN-11 includes all ICD-10 codes listed on Surgery Center’s bills. However, CRF’s dispute based on the lack of preauthorization remains... Despite the fact CRF has now accepted the compensability of these conditions, Surgery Center failed to identify or include these diagnoses in its preauthorization request. For the Reasons listed above, Surgery Center is not entitled to reimbursement for the disputed services rendered in this claim.”

The DWC finds that the respondent no longer is disputing extent of injury. Therefore, the disputed services are reviewed pursuant to 28 TAC §133.307.

2. The requestor seeks reimbursement for services rendered on July 11, 2018. The DWC will determine whether the requestor met the exceptions for filing no later than one year after the date(s) of service in dispute. The disputed services were denied with denial reduction code, 219- Based on extent of injury. The insurance carrier indicates that the extent of injury issues is no longer a disputed issue, as a result the DWC will determine if the dispute was submitted timely and within the required timeframes for MFDR review.

28 TAC §133.307 (c) (1) (B) “Requests for MFDR shall be filed in the form and manner prescribed by the division. Requestors shall file two legible copies of the request with the division. (1) Timeliness. A requestor shall timely file the request with the division’s MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section... (B) A request may be filed later than one year after the date(s) of service if: (i) a related compensability, extent of injury, or liability dispute under Labor Code Chapter 410 has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability...”

28 TAC §133.307(c) (2) (L) states, “Requests for MFDR shall be filed in the form and manner prescribed by the division. Requestors shall file two legible copies of the request with the division... (2) Health Care Provider or Pharmacy Processing Agent Request. The requestor shall provide the following information and records with the request for MFDR in the form and manner prescribed by the division. The provider shall file the request with the MFDR Section by any mail service or personal delivery. The request shall include... (L) when applicable, a copy of the final decision regarding compensability, extent of injury, liability and/or medical necessity for the health care related to the dispute...”

To determine whether the disputed services were filed timely and in accordance with 28 TAC §133.307 (c), the DWC requested a copy of the referenced BRC agreement, dated September 23, 2019, which was not included with the DWCO60 request. The insurance carrier’s representative responded and indicated the following “Thank you for your inquiry. I reviewed our claim file and my notes concerning the BRC held on 9/23/19. It appears that following the BRC on 9/23/20, we addressed the question of extent of injury through a peer review. Once we received the peer review report on 10/3/19, we filed an amended PLN-11 accepting the conditions in dispute (see attached). We also provided a copy of the amended PLN-11 to the representatives of Corpus Christi Outpatient Surgery Center and they

withdrew their request for a second BRC. However, the parties did not formally execute a Benefit Dispute Agreement (DWC-24).”

The DWC therefore finds that the requestor did not meet the exceptions outlined in 28 TAC §133.307 (c)(2)(L).

- 3. Per 28 TAC §133.307(c) (1) states in pertinent part, “Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.”

The date of the services in dispute is July 11, 2018. The request for medical fee dispute resolution (MFDR) was received in the MFDR Section on October 8, 2019. This date is later than one year after the date of service in dispute.

Review of the submitted documentation finds that the disputed services do not involve issues identified in 28 TAC §133.307(c) (1) (B). The DWC concludes that the requestor has failed to timely file this dispute with the DWC’s MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution.

**Conclusion**

For the reasons stated above, the DWC finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

**ORDER**

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

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
November 18, 2020  
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 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 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 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).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**