



# 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**

THE EAR INSTITUTE OF TEXAS PA

**Respondent Name**

TEXAS MUTUAL INSURANCE COMPANY

**MFDR Tracking Number**

M4-20-2032-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

April 20, 2020

**Response Submitted by**

Texas Mutual Insurance Company

#### REQUESTOR'S POSITION SUMMARY

"We received payment on 1 claim, however the other claim has not been addressed. We would like to continue with the dispute unless payment is received for the 9/11/2018 date of service."

#### RESPONDENT'S POSITION SUMMARY

"One year from disputed date 9/11/2018 is 9/11/2019. The TDI/DWC date stamp lists the received date as 4/20/2020 on the requestor's DWC-60 packet, a date greater than one year from 9/11/2018. The requestor has waived its right to DWCMRDR.

Date of service 5/02/2019 - Texas Mutual has elected to reprocess the bill as the referral was necessary for the purpose of the MMI/IR exam per the DD referral."

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
September 11, 2018	99214, 92585, 92584, 92285, 92540, 92537 and 92546	\$1,444.45	Not eligible for review
May 2, 2019	99213, 92504, 92557, 92567 and 92625	\$467.30	\$0.00
TOTAL		\$1,911.75	\$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 (DWC).

**Background**

1. 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.203 sets out the fee guideline for professional medical services.

**Issues**

1. Did the requestor waive the right to medical fee dispute resolution for date of service, September 11, 2018?
2. Did the insurance carrier issue payment for the disputed services rendered on May 2, 2019?

## **Findings**

1. The requestor seeks reimbursement for medical services rendered on September 11, 2018.

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 September 11, 2018. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on April 20, 2020. This date is later than one year after the date(s) 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 Division concludes that the requestor has failed to timely file this dispute with the Division's MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for date of service September 11, 2018, as a result, \$0.00 is recommended.

2. The requestor seeks reimbursement for professional services rendered on May 2, 2019.

Per 28 TAC §134.203 "(c) To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32. (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors and shall be effective January 1st of the new calendar year."

Per 28 TAC §134.203 "(h) When there is no negotiated or contracted amount that complies with Labor Code §413.011, reimbursement shall be the least of the: (1) MAR amount; (2) health care provider's usual and customary charge, unless directed by Division rule to bill a specific amount; or (3) fair and reasonable amount consistent with the standards of §134.1 of this title."

The requestor seeks a total reimbursement in the amount of \$467.30. The DWC reached out to the requestor's representative, Eva Pelayo on June 26, 2020. Ms. Pelayo indicated that payment was received for date of service, May 2, 2019. As a result, the requestor is not entitled to additional reimbursement for the disputed date of service, May 2, 2019.

3. Review of the submitted documentation finds that the requestor is not entitled to additional reimbursement for services rendered on May 2, 2019.

## **Conclusion**

For the reasons stated above, the Division 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 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

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

\_\_\_\_\_  
Date

July 9, 2020

**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).

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