



# 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**

REHAB THERAPY RESOURCES

**Respondent Name**

TEXAS MUTUAL INSURANCE COMPANY

**MFDR Tracking Number**

M4-20-2612-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

June 30, 2020

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "My clinic has utilized preauthorized sessions in good faith to help this patient: This level of service delivery is reflected in the attached clinic data. I have also attached the 03/19/19 letter from Texas Mutual which, as an out-of-network provider, granted me approval 'to provide medically necessary services for this patient.' I respectfully ask for help in getting reimbursed for the delivery of these medically necessary services."

**Requestor's Supplemental Position Summary:** "Ms. Placencia cites Rule 133.20(d)(e) as the primary reason for their continuing denial. I have reviewed this rule and I believe it has been properly followed by my clinic. I am a licensed psychologist and am both the President and the Director of Rehab Therapy Resources, Inc. Dr. Roberto Lozano is employed by this clinic as a counselor though he is not a licensed psychologist. Our clinic follows all Medicare-mandated guidelines for incidental services provided against my license as a psychologist which are to be billed showing Dr. Dr. Gary Whiting as the rendering provider, per those guidelines. This requires that I do the initial evaluation of the patient and that I supervise Dr. Lozano's work regularly, which has been the case with [injured employee]. [Injured Employee], who also had regular contact with me through group therapy provided to him on a pro bono basis. A careful review of Rule 133.20(d) in section (2) explicitly states that bills should be submitted by the supervising health care provider, and Rule 133.20(e) in section (2) also explicitly states that the billing should be in my name, which was the case. These rules also suggest that any out-of-network authorization which was granted to my clinic as the supervising director should extend to those providers under my direct supervision."

**Amount in Dispute:** \$1,025.00

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Texas Mutual reviewed the dispute and determined to uphold the denial. 1. All bills were submitted by Gary Whiting PH.D as the rendering provider, NPI in box 24 J confirm Gary Whiting. Documentation submitted for treatment confirms that Dr. Robert Lozano is the rendering provider on file and primary therapist on file. (see DWC 60). Documentation submitted does not support Dr. Whiting as the rendering provider, it also does not support Dr. Whiting as the direct supervisor to bill on behalf of an unlicensed healthcare provider. The provider has not fully complied with Rule 133.20 (d)(o) [sic]. 2. Out of Network approval was obtained for Dr. Whiting PH.D (see DWC60). There is no out of network approval on file for Dr. Robert Lozano. First paragraph of the letter indicates the approval is provider specific and does not extend to any other associates or services. Dr. Robert Lozano did not have approval to treat the patient. For the reasons noted above, no payment is due."

**Respondent's Supplemental Position Summary:** "The provider has submitted a rebuttal on response completed yesterday. Texas Mutual maintains its position. 1 .Documentation does not support Dr. Whiting as the supervising therapist. 2. Dr. Robert Lozano did not obtain out of network approval to treat the patient."

**Response Submitted by:** Texas Mutual Insurance Company

## **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 1, 2019 through March 20, 2020	96152, 96158, 96159	\$242.81	\$0.00

## **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**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.10 sets out the requirements for a complete medical bill.
3. 28 Texas Administrative Code §133.20 sets out the requirements for medical bill submission by the health care provider.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - CAC-P12 WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT
  - CAC-16 – CLAIM/SERVICE LACKS INFORMATION OR HAS USBMISSION BILLING ERROR(S) WHICH IS NEEDED FOR ADJUDICATION
  - CAC-W3 IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL. CAC-16 CLAIM/SERVICE LACKS INFORMATION OR HAS SUBMISSION/BILLING ERROR(S) WHICH IS NEEDED FOR ADJUDICATION.
  - CAC-193 ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.
  - DC4 – NO ADDITIONAL REIMBURSEMENT ALLOWED AFTER RECONSIDERATION. FOR INFORMATION CALL (800) 859-5995 X3994.
  - D25 – APPROVED NON-NETWORK PROVIDER FOR WORKWELL, TX NETWORK CLAIMANT PER RULE 1305.153 (C).
  - 225 – THE SUBMITTED DOCUMENTATION DOES NOT SUPPORT THE SERVICE BEING BILLED. WE WILL RE-EVALUATE THIS UPON RECEIPT OF CLARIFYING INFORMATION.
  - 360 – IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
  - 892 – DENIED IN ACCORDANCE WITH DWC RULES AND/OR MEDICAL FEE GUIDELINE INCLUDING CURRENT CPT CODE DESCRIPTIONS/INSTRUCTIONS.

### **Issues**

1. Is the requestor entitled to reimbursement?

### **Findings**

The workers' compensation insurance carrier denied payment for the disputed services based upon its allegation that the rendering provider's information did not appear on the CMS Form 1500 (02/12). Specifically, the carrier on the explanation of benefits issued states that " Denied in accordance with DWC Rules and/or medical fee guideline including current CPT code descriptions/instructions."

According to 28 TAC §133.10 (f) (1) (U) and (V), the **rendering provider's** information is required to be listed in box 24j, shaded (state license) and un-shaded (NPI) fields.

Per 28 TAC §133.20 (d) "The health care provider that provided the health care shall submit its own bill, unless...(2) the health care was provided by an unlicensed individual under the direct supervision of a licensed health care provider, in which case the supervising health care provider shall submit the bill."

Per 28 TAC §133.20 (e)(2), "(e) A medical bill must be submitted... (2) in the name of the licensed health care provider that provided the health care or that provided direct supervision of an unlicensed individual who provided the health care."

Read together these provisions only allow for a supervising provider to be listed in 24j if the rendering provider is not licensed.

Review of the CMS 1500 provided finds that the requestor listed the license and NPI information for Dr. Gary Whiting in box 24j. Review of the documentation supports that Dr. Robert Lozano a licensed provider rendered the disputed services under the supervision of Dr. Gary Whiting, who billed for the disputed services. The DWC finds that both Dr. Robert Lozano and Dr. Gary Whiting are licensed providers. As a result, Dr. Robert Lozano was required per 28 TAC 133.20 (3)(2) to submit the medical bill in his name and license number.

The DWC concludes that the workers' compensation insurance carrier's denial is supported. For that reason, reimbursement cannot be recommended.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that 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**

_____	_____	July 30, 2020
Signature	Medical Fee Dispute Resolution Manager	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 Texas Administrative Code §133.307, 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 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 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.**