



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

NORTH TEXAS PAIN RECOVERY CENTER

Respondent Name

TPCIGA FOR LUMBERMENS MUTUAL CASUALTY CO.

MFDR Tracking Number

M4-21-0204-01

Carrier's Austin Representative

Box Number 50

MFDR Date Received

October 9, 2020

Response Submitted By

Stone, Loughlin & Swanson

REQUESTOR'S POSITION SUMMARY

"Both peer review doctors had all of the medical records amassed over 25 years. They reviewed those records and carefully included the opinions of all of the doctors who examined the claimant. As indicated above, Subclaimant exhibit 10 details all of the opinions of those various doctors that support the fact that the compensable injury continued and did not end... Any workers' compensation attorney, in reviewing those reports, would immediately grasp the fact that both peer review doctors thought that the injury was limited... and would have explained to them the provisions of Rule 130.102(h) and that they must consider the impact of the... with respect to continued pain."

RESPONDENT'S POSITION SUMMARY

"On April 16, 2020, TPCIGA requested refund of payments made to North Texas for health care unrelated to the... work injury and for which TPCIGA was thus not liable pursuant to 28 TAC §133.260. Brian Shepler replied on behalf of North Texas on May 5, 2020 and declined to refund the requested amount. TPCIGA considered North Texas's May 5, 2020 letter an appeal to the April 16, 2020 refund request and thereafter filed its Notice of Denied Appeal on May 27, 2020, in accordance with Rule 133.260 (d). As remuneration from North Texas was not issued, TPCIGA filed a violation referral to the Division's Compliance and Practices department on October 12, 2020. Results of that violation referral are still pending."

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
January 6, 2020 through January 24, 2020	97799-CP-CA	\$15,000.00	\$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

- 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
- 28 TAC §133.260 sets out the refund guidelines.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:

Explanation of benefits

- 309 -THE CHARGE FOR THIS PROCEDURE EXCEEDS THE FEE SCHEDULE ALLOWANCE
- P12-WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.

Issues

1. Did the insurance carrier request a refund within the time allowed per 28 TAC §133.260(b)?
2. Did the requestor appeal the refund request?
3. Did the insurance carrier act on the health provider's appeal within 45 days after the date on which the health care provider filed the appeal?
4. Did the requestor remit the refund with any applicable interest within 45 days of receipt of notice of denied appeal prior to the filing of MFDR?

Findings

1. 28 TAC §133.260(a) states in pertinent part "An insurance carrier shall request a refund with 240 days from the date of service or 30 days from completion of an audit performed in accordance with §133.230 (relating to Insurance Carrier audit of a Medical Bill), whichever is later, when it determines that inappropriate health care was previously reimbursed, or when an overpayment was made for health care provided"

The requestor seeks resolution of an insurance carrier refund request for services rendered on January 6, 2020 through January 24, 2020. On April 16, 2020, the carrier requested a refund from the requestor (a copy of the refund request was not provided by either party) for CPT code 97799-CP-CA for which it had reimbursed a total of \$15,000.00. The division finds that the insurance carrier met the requirements of 28 TAC 133.260(a).

2. Per 28 TAC §133.260 (b) "The insurance carrier shall submit the refund request to the health care provider in an explanation of benefits in the form and manner prescribed by the Division. (c) A health care provider shall respond to a request for a refund from an insurance carrier by the 45th day after receipt of the request by: (1) paying the requested amount; or (2) submitting an appeal to the insurance carrier with a specific explanation of the reason the health care provider has failed to remit payment."

The requestor responded to the refund request on May 5, 2020 (a copy of the response was not provided by either party.) The division finds that the requestor met the requirements of 28 TAC 133.260(b)(2) as the carrier made the request on April 16, 2020 and the appeal was made May 5, 2020 , within the 45 days required by 28 TAC §133.260(b)(2).

3. Per 28 TAC §133.260 (c) A health care provider shall respond to a request for a refund from an insurance carrier by the 45th day after receipt of the request by: (1) paying the requested amount; or (2) submitting an appeal to the insurance carrier with a specific explanation of the reason the health care provider has failed to remit payment.

The requestor responded to the insurance carrier refund request on May 5, 2020 and appealed the refund request.

4. Per 28 TAC 133.260(d) "The insurance carrier shall act on a health care provider's appeal within 45 days after the date on which the health care provider filed the appeal. The insurance carrier shall provide the health care provider with notice of its determination, either agreeing that no refund is due, or denying the appeal."

The insurance carrier acted on the health care provider's appeal on May 27, 2020. The division finds that the insurance carrier did meet the 45-day timeframe requirement of §133.260(d).

5. Per 28 TAC 133.260(e) "If the insurance carrier denies the appeal, the health provider:
(1) Shall remit the refund with any applicable interest with 45 days of receipt of notice of denied appeal; **and**
(2) May request medical dispute resolution in accordance with §133.305 of this chapter (relating to Medical Dispute Resolution – General)."

In this case, the requestor received substantive notice of the alleged overpay on April 16, 2020. The requestor submitted insufficient documentation to support that the refund was remitted to the insurance carrier after the denial of the appeal by the insurance carrier and before the submission of the medical fee dispute. The division finds that the refund dispute request for medical fee dispute resolution was submitted prematurely by North Texas Pain Recovery Center. No documentation was found in the dispute request to support that the conditions in 28 TAC 133.260 (e)(1)(2) were met, as a result this request was determined ineligible for review and consideration of the refund request.

Conclusion

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. After thorough review and consideration of the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the review of the refund request. The requestor has failed to establish that the dispute is eligible for review.

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 has failed to establish that the dispute is eligible for review.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

November 5, 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 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 TAC §141.1(d).

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