



# 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**

Hand & Wrist Center of Houston

**Respondent Name**

Texas Mutual Insurance Co

**MFDR Tracking Number**

M4-21-0498-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

November 23, 2020

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The injured worker's medical condition has been determined to be a medical emergency as defined in the Texas Administrative Code."

**Amount in Dispute:** \$1,103.70

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Texas Mutual Insurance argues that OT services do not meet the criteria for emergency services per appeal letter submitted by the provider... Absent an emergency; preauthorization is required per Rule 134.600."

**Response Submitted by:** Texas Mutual

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 26, 2019	Physical Medicine	\$1,103.70	\$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 TAC §133.2 sets out the definition of an emergency.
3. 28 Texas Insurance Code (TIC) Chapter 1305 applicable to Health Care Certified Networks.
4. 28 TAC §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network.

## Issues

1. Did the requestor support disputed services meet the definition of an emergency?
2. Did the Requestor obtain an out-of-network referral from the injured employee's treating doctor that was approved by the network pursuant to §1305.103?
3. Is this dispute eligible for medical fee dispute resolution (MFDR) pursuant to 28 TAC §133.307?

## Findings

1. The requestor states in their position statement, "The injured worker's medical condition has been determined to be a medical emergency as defined in the Texas Administrative Code." 28 TAC §133.2 (5) (A) states in pertinent part a medical emergency is the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health or bodily functions in serious jeopardy.

Review of the submitted medical record found the date of injury was greater than 14 days prior to the disputed date of service. The "sudden onset" of the medical condition as required by definition of the Rule shown above was not supported. The insurance carrier's denial for lack of pre-authorization is discussed below.

2. The requestor filed this medical fee dispute to the DWC asking for resolution pursuant to 28 TAC (TAC) §133.307 titled *MDR of Fee Disputes*.

The respondent submitted information supporting that the injured employee is enrolled in a certified health network.

The authority of the DWC is to apply TLC statutes and rules, including 28 TAC §133.307, is limited to the conditions outlined in the applicable portions of the TIC, Chapter 1305. TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by §1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation."

TIC §1305.006 states, in pertinent part, "(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 §1305.103."

The requestor therefore has the burden to prove that the condition(s) outlined in the TIC §1305.006 were met to be eligible for dispute resolution. The following are the DWC's findings.

TIC §1305.103 requires that "(e) A treating doctor shall provide health care to the employee for the employee's compensable injury and shall make referrals to other network providers, or request referrals to out-of-network providers if medically necessary services are not available within the network. Referrals to out-of-network providers must be approved by the network. The network shall approve a referral to an out-of-network provider not later than the seventh day after the date on which the referral is requested, or sooner if circumstances and the condition of the employee require expedited approval. If the network denies the referral request, the employee may appeal the decision through the network's complaint process under Subchapter I."

3. The requestor has the burden to prove that it obtained the appropriate approved out-of-network referral for the out-of-network healthcare it provided. Review of the submitted documentation finds that the requestor submitted insufficient documentation and/or no documentation to support that a referral was obtained from the treating doctor and approved by the network to treat the injured employee. The DWC concludes that the requestor thereby has failed to meet the requirements of TIC §1305.103.

The DWC finds that the requestor failed to prove in this case that that the requirements of TIC §1305.006(3) were met. Consequently, the services in dispute are not eligible for MFDR pursuant to 28 TAC §133.307.

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 may be filed to the TDI's 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 may be the appropriate administrative remedy to address fee matters related to health care certified networks.

**Conclusion**

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 not eligible for MFDR under 28 TAC §133.307.

**Authorized Signature**

\_\_\_\_\_  
Signature

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

December 22, 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 to appeal a Medical Fee Dispute Decision, must submit form **DWC045M**. The request must be received by the DWC within **twenty (20)** 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 MFDR's Findings and Decision** together with any other required information specified in 28 TAC §141.1(d).