



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

JASON RICHARD BAILEY, MD PA

MFDR Tracking Number

M4-21-0942-01

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

MFDR Date Received

February 9, 2021

Response Submitted By

Texas Mutual Insurance Company

Carrier's Austin Representative

Box Number 54

REQUESTOR'S POSITION SUMMARY

"On May 11, 2020 Dr. Steven Thornton, Orthopedic Surgeon approved under authorization / reference number 16467154 for Dr. Jason Ashford to proceed with planned procedures 26546, 20680, 26531, 26520 x2, 26445 x3. Under Authorization/ Reference number... effective May 11, 2020 through September 11, 2020 on page 2, under Network Information the provider is listed as 'Network Status'."

RESPONDENT'S POSITION SUMMARY

"The Coventry preauthorization letter dated 5/11/2020, confirms that Dr. Ashford is a network provider, at 500 Medical Center Blvd, Conroe TX under TIN..., to be the network facility or record. Additional review of documentation submitted by the provider confirms that Dr. Ashford rendered service at the Hospital Facility 504 Medical Center Blvd, which is not in network therefore out of network approval is required. Coventry provided information on the preauthorization letter on how to obtain out of network approval before treatment is rendered. Dr. Ashford did not obtain out of network approval for the hospital location."

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Service(s)	Amount in Dispute	Amount Due
May 26, 2020	26546, 26520 x 2, 26445 x 4 and 76000	\$34,945.37	\$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

1. 28 Texas Administrative Code §133.307, sets out the procedures for resolving medical fee disputes
2. 28 Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.
3. 28 Texas Administrative Code §§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 obtain an out-of-network referral from the injured employee's treating doctor that was approved by the network pursuant to §1305.103?
2. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code (TAC) §133.307?

Findings

1. The requestor filed this medical fee dispute to the Division asking for resolution pursuant to 28 TAC §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation is to apply Texas Labor Code statutes and rules, including 28 TAC §133.307, is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (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 Division'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."

2. 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 Division concludes that the requestor thereby has failed to meet the requirements of TIC §1305.103.

The requestor submitted a copy of a preauthorization letter with the DWCO60 request, however, submitted insufficient documentation to support that an out-of-network referral was obtained from the network. The Division concludes that the requestor did not receive an out-of-network referral from the Certified Healthcare Network to treat the injured employee; thereby failing to meet the requirements of TIC §1305.006 (3) and §1305.103. Consequently, the services in dispute are not eligible for medical fee dispute resolution 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 Division finds that the disputed may be filed to the Texas Department of Insurance's (TDI) 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.

FINDINGS

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 not eligible for Medical Fee Dispute Resolution under 28 TAC §133.307.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

Date

March 11, 2021

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).