



**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**  
**GENERAL INFORMATION**

<b><u>Requestor Name</u></b>	<b><u>MFDR Tracking Number</u></b>
HAND & WRIST CENTER OF HOUSTON	M4-21-1797-01
<b><u>Respondent Name</u></b>	<b><u>MFDR Date Received</u></b>
TEXAS MUTUAL INSURANCE COMPANY	June 7, 2021
<b><u>Response Submitted By</u></b>	<b><u>Carrier's Austin Representative</u></b>
Texas Mutual Insurance Company	Box Number 54

**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... RULE §10.2 (15)... Please review the paid amounts as they pertain to the MAR (Maximum Allowable Reimbursement) for the services provided."

**RESPONDENT'S POSITION SUMMARY**

"Texas Mutual claim... is in the WorkWell Network. (Attachment) HAND & WRIST CENTER OF HOUSTON DEPART A provided alleged medical emergency surgery to the claimant. Texas Mutual Insurance argues if the patient had a choice in treatment options, then this confirms the surgery was elective, and Dr. Mark Henry had time to request preauthorization for the procedure to be completed. Elective procedures are not considered emergent per rule 133.2. The bill was denied as the documentation does not support a medical emergency... Texas Mutual has no record of receiving a preauthorization request for the surgery performed nor has the requester provided any documentation it sought and obtained preauthorization. Absent an emergency; preauthorization was required but not obtained."

**SUMMARY DISPUTED SERVICES**

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Ordered
June 26, 2020	99285, 26615 and 73130	\$1,749.66	\$1,668.19

**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 (TAC) §133.305, sets out the procedures for resolving medical disputes.
2. 28 TAC §133.307, sets out the procedures for resolving medical fee disputes.
3. 28 Texas Insurance Code 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.
5. 28 TAC §133.2 defines medical emergency.

6. 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 SUBMISSION/BILLING ERROR(\$ ) WHICH IS NEEDED FOR ADJUDICATION.
  - CAC-193 - ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT MS DETERMINED THAT THIS CLAIM MS PROCESSED PROPERLY. CAC-197 PRECERTIFICATION/AUTHORIZATION/NOTIFICATION ABSENT.
  - CAC-243 - SERVICES NOT AUTHORIZED BY NETWORK/PRIMARY CARE PROVIDERS.
  - DC4 - NO ADDITIONAL REIMBURSEMENT ALLOED AFTER RECONSIDERATION.
  - D27 - PROVIDER NOT APPROVED TO TREAT WORKWELL, TX NETWORK CLAIMANT. FOR NETWORK INFORMATION CALL 844-867-2338
  - 225 - THE SUBMITTED DOCUMENTATION DOES NOT SUPPORT THE SERVICE BEING BILLED. WE WILL RE-EVALUATE THIS UPON RECEIPT OF CLARIFYING INFORMATION.
  - 786 - DENIED FOR LACK OF PREAUTHORIZATION OR PREAUTHORIZATION DENIAL IN ACCORDANCE WITH THE NETWQRK CONTRACT.
  - 899 - DOCUMENTATION AND FILE REVIEW DOES NOT SUPPORT AN EMERGENCY IN ACCORDANCE W/RULE 133.2
  - CAC-197 – PRECERTIFICATION/AUTHORIZATION/NOTIFCATION ABSENT.

**Issue**

1. Did the out-of-network healthcare provider meet the requirements of Chapter §1305.006?
2. Are the services in dispute subject to 28 TAC §134.600?
3. Do the services in dispute contain NCCI edits that could affect reimbursement?
4. Is the requestor entitled to reimbursement for the services in dispute?

**Findings**

1. The requestor billed CPT Codes 99258, 26615 and 73130, rendered on June 26, 2020 to an injured employee enrolled in the Work Well Network, a certified healthcare network. The requestor seeks a decision from the Division’s medical fee dispute resolution (MFDR) section as an out-of-network healthcare provider.

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 to resolve matters involving employees enrolled in a certified health care network, is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305 and limited application of Texas Labor Code statutes and rules, including 28 TAC §133.307.

Texas Insurance Code (TIC) §1305.006 outlines the insurance carrier’s liability for out-of-network healthcare and states, “An insurance carrier that establishes or contracts with a network is liable for the following out-of-network health care that is provided to an injured employee:

- (1) emergency care;
- (2) health care provided to an injured employee who does not live within the service area of any network established by the insurance carrier or with which the insurance carrier has a contract; and
- (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 Section 1305.103.

TIC §1305.153 (c) provides “Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation.

The DWC may address disputes involving health care provided to an injured employee enrolled in an HCN, only if the out-of-network health care provider meets one of the conditions(s) outlined in TIC §1305.006.

The requestor states the disputed services were a result of an emergent situation. 28 TAC §133.2 (5)(A) defines a medical emergency as 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, or serious dysfunction of any body organ or part.

The requestor submitted sufficient documentation to support their argument that the services rendered were a medical emergency as defined by 28 TAC §133.2. The Division finds that the requestor submitted sufficient documentation to support that the condition(s) outlined in TIC §1305.006 (1) were met. As a result, the submitted medical fee dispute is eligible for review.

2. 28 TAC §134.600 states in pertinent part, “(p) non-emergency health care requiring preauthorization...”

The services in dispute were identified as an emergency and therefore are not subject to 28 TAC §134.600.

3. 28 TAC §134.203 (b) states in pertinent part, “For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.”

The requestor billed CPT Codes 99285, 26615 and 73130 on June 26, 2020. The DWC completed NCCI edits to identify potential edit conflicts that could affect reimbursement. No NCCI edits conflicts were identified as a result the services in dispute are subject to 28TAC §134.203.

4. 28 TAC §134.203 states in pertinent part, “(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...”

To determine the MAR the following formula is used:

- $(\text{DWC Conversion Factor} / \text{Medicare Conversion Factor}) \times \text{Participating Amount} = \text{Maximum Allowable Reimbursement (MAR)}$ .
- The 2020 DWC conversion factor for this service is 75.7. The Medicare Conversion Factor is 36.0896.
- Review of Box 32 on the CMS-1500 the services were rendered in Houston, Texas; therefore, the locality is “Houston, Texas”.
- The Medicare participating amount for code 99285 in Houston, Texas is \$180.09. Using the above formula, the MAR is \$377.75.
- The Medicare participating amount for code 26615 in Houston, Texas is \$606.01. Using the above formula, the MAR is \$1,271.14.
- The Medicare participating amount for code 73130 in Houston, Texas is \$9.20. Using the above formula, the MAR is \$19.30.

The insurance carrier issued a payment in the amount of \$0.00. The total MAR is \$1,668.19. The requestor is therefore entitled to reimbursement in the amount of \$1,668.19.

### **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. Even though all the evidence was not discussed, it was considered. The Division finds that this dispute is not under the jurisdiction of the Division of Workers' Compensation and is therefore, not eligible for medical fee dispute resolution under 28 TAC §133.307.

### **Conclusion**

For the reasons stated above, the DWC finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,668.19.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of TLC Sections 413.031 and 413.019 (if applicable), the DWC has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The DWC hereby ORDERS the respondent to remit to the requestor the amount of \$1,668.19 plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

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Signature \_\_\_\_\_ Medical Fee Dispute Resolution Officer \_\_\_\_\_ Date **July 6, 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 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).