



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
512-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

BENCHMARK PHYSICAL THERAPY

Respondent Name

LIBERTY MUTUAL INSURANCE CO

MFDR Tracking Number

M4-21-1821-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

JUNE 11, 2021

REQUESTOR'S POSITION SUMMARY

"After numerous denial EOBs and numerous resubmissions via fax, we were advised to ...defer to the Texas Department of Insurance."

Disputed Amount: \$1,965.25

RESPONDENT'S POSITION SUMMARY

This bills for DOS 05/01/2020 thru 06/03/2020 will not be reviewed as this dispute has been submitted past the timely filing deadline per Rule 133.307."

Response Submitted By: Liberty Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 1, 2020 through June 3, 2020	Physical Therapy Services	\$1,965.25	\$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 (DWC).

Background

- 28 Texas Administrative Code (TAC) §133.307, effective February 22, 2021, sets out the procedures for resolving medical fee disputes.
- 28 Texas Insurance Code (TIC) Chapter 1305 applicable to Health Care Certified Networks.
- 28 TAC §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network.
- The services in dispute were reduced / denied payment by the respondent with the following claim adjustment reason codes:
 - 5976-Claims under investigation.

- 5884-Provider is not within the Liberty Health Care Network (HCN) for this customer. Insurance Code 1305.004(B) and Labor Code 401.011.
- 269-This billing is for a service unrelated to the work illness or injury.
- W3-Additional payment made on appeal/reconsideration.

Issue

Are dates of service May 1, 2020 through June 3, 2020 eligible for Medical Fee Dispute Resolution (MFDR) in accordance with 28 TAC §133.307?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$1,965.25 for physical therapy services rendered from May 1, 2020 through June 3, 2020.
2. The respondent denied reimbursement for the physical therapy services based upon “269-This billing is for a service unrelated to the work illness or injury”.

28 TAC §133.307(d)(2)(H) requires the respondent to submit documentation “If the medical fee dispute involves compensability, extent of injury, or liability, the insurance carrier must attach any related Plain Language Notice in accordance with §124.2 of this title (concerning Insurance Carrier Reporting and Notification Requirements).”

The respondent did not submit any Plain Language Notice in accordance with §124.2 in accordance with 28 TAC §133.307(d)(2)(H) to support denial based upon “269”. The DWC finds the respondent did not support the “269” denial.

3. The respondent also denied reimbursement for the disputed physical therapy services based upon “5884-Provider is not within the Liberty Health Care Network (HCN) for this customer. Insurance Code 1305.004(B) and Labor Code 401.011.”

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 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.”

4. 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.

FINDINGS

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

_____	_____	<u>07/08/2021</u>
Signature	Medical Fee Dispute Resolution Officer	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, 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 DWC within **twenty** 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 *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.