



## Medical Fee Dispute Resolution Findings and Decision General Information

**Requester Name**

MARK H. HENRY MD

**Respondent Name**

TEXAS MUTUAL INSURANCE COMPANY

**MFDR Tracking Number**

M4-21-2121-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

July 19, 2021

### Summary of Findings

| Dates of Service  | Disputed Services      | Amount in Dispute | Amount Due |
|-------------------|------------------------|-------------------|------------|
| November 17, 2020 | 73140, 99072 and 99080 | \$174.39          | \$0.00     |
| <b>Total</b>      |                        | \$174.39          | \$0.00     |

### Requester's Position

"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."

**Amount in Dispute:** \$174.39

### Respondent's Position

"Texas Mutual claim... is in the WorkWell Network... Dr. Henry cites the emergency rule, the bills were denied due to the provider not obtaining out of network approval... Review of the documentation submitted per the DWC60 packet does not include a review of system to suggest without the procedure performed would result in serious jeopardy of the patient's current condition, per emergency Rule 133.2(a)(4)(A)(i)(ii). The treatment plan of the documentation is noted the patient was educated on treatment planning options and all planning is selected exclusively by the patient and not by the physician. Texas Mutual argues that the documentation submitted does not meet or support emergency criteria."

**Response Submitted by:** Texas Mutual Insurance Company

## Findings and Decision

### **Authority**

This medical fee dispute is decided according to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

### **Statutes and Rules**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. Texas Insurance Code Chapter 1305 applies to health care certified networks.
3. 28 TAC §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network.
4. 28 TAC §133.2 defines medical emergency.

### **Issues**

1. Did the requestor meet the definition of medical emergency?
2. Did the out-of-network healthcare provider meet the requirements of Chapter §1305.006?
3. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

### **Findings**

1. 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 insufficient documentation to support their argument that the services rendered were a medical emergency as defined by 28 TAC §133.2. As a result, the submitted medical records do not meet the definition of emergency and the dispute is not eligible for review.

2. The requestor billed for CPT Codes 73140, 99072 and 99080 rendered on November 17, 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 Texas Administrative Code (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 Texas Administrative Code §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 Division finds that the insufficient documentation was submitted by the requestor to support that the condition(s) outlined in TIC §1305.006 (1) were met. Adjudicating the disputed service would involve enforcing a law, regulation, or other provision for the disputed service(s), provided to an in-network injured employee. The Division finds the disputed services are not under the jurisdiction of the Division of Workers' Compensation and therefore, are not eligible for medical fee dispute resolution under 28 TAC §133.307.

The DWC finds that the requestor failed to prove in this case 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.

3. The Division finds that the disputed services were rendered to an in-network injured employee. 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 services may be filed to the 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 and may be the appropriate administrative remedy to address matters related to health care certified networks.

**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.

**DECISION**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is not eligible for resolution under 28 TAC §133.307.

**Authorized Signature**

|           |  |                 |
|-----------|--|-----------------|
|           |  | October 4, 2021 |
| 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 under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the instructions on the form. You can find the form at [www.tdi.texas.gov/forms/form20numeric.html](http://www.tdi.texas.gov/forms/form20numeric.html). DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, please call CompConnection at 1-800-252- 7031, Option 3, or email [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).

The party seeking review of the MFDR decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with DWC. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** with any other required information listed 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.