



## Medical Fee Dispute Resolution Findings and Decision General Information

**Requestor Name**

ERIC VANDERWERFF, D.C.

**Respondent Name**

INDEMNITY INSURANCE COMPANY

**MFDR Tracking Number**

M4-22-0675-01

**Carrier's Austin Representative**

Box Number 15

**DWC Date Received**

December 6, 2021

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 1, 2020, December 2, 2020, and December 3, 2020	97799-CP x 3	\$1,800.00	\$0.00
<b>Total</b>		\$1,800.00	\$0.00

### Requestor's Position

"On 05/18/21, Joyce Wyatt, working for Millennium Chiropractic, called bill review and spoke with Dianna about these EOBs never being received. Dianna informed Joyce that she would contact the adjuster to get payment or EOBs sent to us. We never received any EOBs or payment for these three dates of service. The carrier paid for the next 16 visits without issue, and then stopped paying again. On 09/11/21, Joyce called again and spoke with the adjuster, Clementina, who informed Joyce that all dates of service yet unpaid were not going to be paid, because all services were not related to the workers' compensation claim, because the claim had been permanently closed as of 05/28/2020."

**Amount in Dispute:** \$1,800.00

**Supplemental Position Summary:** "Attached is a letter we received today from Downs & Stanford attorney John Fundis. In his letter, Fundis attempts to influence MFDR to dismiss our fee dispute, claiming that it was received on the date of MFDR's date stamp of 12/6/21, which was after the one-year anniversary of the three dates of service that are in dispute: 12/1/20, 12/2/20 and 12/3/20. Fundis is partially correct. The DOS 12/1/20 was sent after the 1-year deadline. However, MFDR has informed our clinic in writing on at least two occasions that the date of the fee dispute's postmark is the date it is considered received by MFDR."

## Respondent's Position

"Medical Fee Dispute Resolution received Requestor's DWC-60 on 12/6/2020 as evidenced by the date stamp on the DWC-60. The dates of service in dispute are 12/1/2020-12/3/2020. Therefore, Respondent requests Medical Fee Dispute Resolution enter a Findings and Decision stating Requestor waived their right to dispute resolution as the request was not filed within one year of the date of service."

**Response Submitted by:** Downs Stanford, P.C.

## 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

28 TAC §133.307 sets out the procedures for resolving medical fee disputes.

28 TAC §42.20 Who May Treat.

### Denial Reasons

Neither party submitted copies of EOBs with the DWC060 request/response.

### Issues

1. Did the requestor submit a bill with a valid state license number?
2. Did the requestor waive the right to medical fee dispute resolution?

### Findings

1. The requestor seeks dispute resolution for chronic pain management services rendered on December 1, 2020, December 2, 2020, and December 3, 2020.

28 Texas Administrative Code (TAC) §42.20 states, "(a-b) Licensed Doctor of Medicine, osteopathy, chiropractic, and podiatry may act as treating doctors for injured workers entitled to benefits under the Act. (b) Treating doctors may prescribe treatment to be rendered by other persons licensed to provide health care, or by persons not licensed to provide health care who work under the direct supervision and control of the treating."

The DWC issued a cease-and-desist order dated December 21, 2020, which states in part, "It is ordered that Eric A. Vanderwerff, D.C., must immediately cease and desist from the following: Providing health care services in the Texas workers' compensation system, including serving as a treating doctor, until he notifies DWC that the Texas Board of Chiropractic Examiners has allowed him to practice chiropractic medicine."

In addition, the cease-and-desist order states "On October 1, 2020, Dr. Vanderwerff's license expired and remains expired as of December 18, 2020."

The DWC finds that Dr. Vanderwerff was not licensed on December 1, 2020, December 2, 2020, and December 3, 2020 when the services in dispute were rendered.

2. The requestor seeks reimbursement in the amount of \$1,800.00 for CPT Codes 97799-CP, rendered on December 1, 2020, December 2, 2020, and December 3, 2020.

The requestor states, "The DOS 12/1/20 was sent after the 1-year deadline. However, MFDR has informed our clinic in writing on at least two occasions that the date of the fee dispute's postmark is the date it is considered received by MFDR."

Review of the documentation submitted by the requestor does not contain documentation to support the statement indicated above.

28 TAC §133.307(c) (1) states in pertinent part, "Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute."

The dates of the services in dispute are December 1, 2020, December 2, 2020, and December 3, 2020. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on December 6, 2021. This date is later than one year after the date(s) of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in 28 TAC §133.307(c) (1) (B).

The DWC reviewed the submitted documentation and finds the following:

- The request for medical dispute resolution was received in MFDR on December 6, 2021.
- The disputed dates of service are December 1, 2020, December 2, 2020, and December 3, 2020.
- The disputed services do not involve issues identified in §133.307(c)(1)(B).
- Dates of service December 1, 2020, December 2, 2020 and December 3, 2020 are past the one-year deadline.
- Because the requestor did not file this dispute with MFDR within the one-year deadline it is not eligible for MFDR review.

The DWC concludes that the requestor has failed to timely file this dispute with the Division's MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution.

Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requester has not established that reimbursement of is due.

**Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is not entitled to reimbursement for the disputed services.

**Authorized Signature**

		July 11, 2022
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 1-800-252-7031, opción 3 o correo electronico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).