



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

MEMORIAL HERMANN HOSPITAL

Respondent Name

AMERISURE MUTUAL INSURANCE COMPANY

MFDR Tracking Number

M4-22-0719-01

Carrier's Austin Representative

Box Number 47

DWC Date Received

December 14, 2021

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 28, 2021 through May 29, 2021	Inpatient Facility Charges	\$33,684.00	\$0.00
Total		\$33,684.00	\$0.00

Requestor's Position

"As of right now, the outstanding inpatient medical bill has not been paid as the carrier is denying this for no authorization. We believe this should be waived for the following reason: This was an Emergency overnight admit that happened on a holiday weekend. The patient was discharged by the time the office reopened on the next business day. The carrier has also refused to provide us or our client with a copy of the denial EOB."

Amount in Dispute: \$33,684.00

Respondent's Position

"Amerisure properly denied reimbursement for the non-emergent outpatient surgical services performed on the basis the service was not preauthorized."

Response Submitted by: Burns Anderson Jury & Brenner, L.L.P.

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 (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.600 sets out the preauthorization guidelines.
3. 28 TAC §133.2 defines emergency.

Denial Reasons

The insurance carrier reduced or denied the payment for the disputed services with the following claim adjustment codes:

- 197 – Payment denied/reduced for absence of precertification/preauthorization.
- W3 –Original denial no preauthorization, no additional recommended.

Issues

Is the Requestor entitled to reimbursement?

Findings

The requestor seeks reimbursement for inpatient facility charges rendered on May 28, 2021 through May 29, 2021. The insurance carrier denied the disputed services for absence of preauthorization. The requestor states prior authorization was not required as the services were rendered due to an emergency situation. 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](#).

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.

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 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.

The Division finds that 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 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.

Order

The DWC has determined that this dispute is not eligible for resolution under 28 TAC §133.307.

Authorized Signature

		May 13, 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. 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.

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.