

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

MICHAEL LOPEZ, DC

**Respondent Name**

POLY AMERICA LP

**MFDR Tracking Number**

M4-22-1148-01

**Carrier's Austin Representative**

Box Number 11

**DWC Date Received**

February 14, 2022

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
September 23, 2020	99213 and 99080-73	\$140.62	\$0.00
<b>Total</b>		\$140.62	\$0.00

### Requestor's Position

"This claim should be paid IN FULL WITHOUT ANY FURTHER DELAY. This is an approved case, and all claims are to be paid in full. Also, research Rule 134.130 regarding interest that is to be paid. THESE ARE NOT DUPLICATES. If you have any questions or concerns, please, do not hesitate to contact my office."

**Amount in Dispute:** \$140.32

### Respondent's Position

"...the provider is not entitled to medical fee dispute resolution because he did not timely file his request for medical fee dispute resolution within one year of the date of service. As previously noted, if he attempts to bring himself within the exception to the one-year filing requirement, then he must also concede that the extent of injury dispute involved conditions that were resolved at the CCH. There was never a dispute of... The carrier had always accepted the condition and memorialize that position with its PLN-11 dated August 20, 2020."

**Response Submitted by:** Flahive, Ogden & Latson

## 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 TAC §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §102.5 sets out the General Rules for Written Communications to and from the Commission.

### Denial Reasons

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

- 219 – Based on extent of injury
- 2K10 – Resolution manager denial
- 49511 – Duplicate Charge

### Issues

Did the requestor waive the right to medical fee dispute resolution?

### Findings

The requestor seeks reimbursement for medical services rendered on September 23, 2020.

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 date of the service in dispute is September 23, 2020. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on February 14, 2022. Review of the submitted documentation finds that the disputed services involve issues identified in 28 TAC §133.307(c) (1) (B).

28 TAC §133.307 (c) (1) (B) states that a request for medical fee dispute resolution may be filed 60-days after a requestor has received an approved agreement or a final decision and order that resolves the compensability or extent-of-injury denial.

Per 28 TAC §102.5 states, "(d) For purposes of determining the date of receipt for written communications sent by the division, which require the recipient to perform an action by a specific date after receipt unless the great weight of evidence indicates otherwise, the division will deem the received date to be the earliest of: five days after the date mailed through United States Postal Service regular mail, the first working day after the date the written communication was placed in an insurance carrier's Austin representative's electronic box, or the date faxed or electronically transmitted as defined in subsection (h) of this section."

The Decision & Order was mailed by the DWC on December 2, 2021, 5 days for mail per rule 28 TAC §102.5, makes the received date by the provider as, Tuesday, December 7, 2021. The 60 days after the final decision is Monday, February 7, 2022. The DWC060 was received by the DWC on February 14, 2022. The dispute is therefore untimely and not eligible for review. The Division 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**

_____	_____	March 10, 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 electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).