



Medical Fee Dispute Resolution Findings and Decision General Information

Requester Name

ONE TWO STARS

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

MFDR Tracking Number

M4-22-1385-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

May 7, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 9, 2021	G0453, 95955-26 and 95861-26	\$90,000.00	\$0.00
Total		\$90,000.00	\$0.00

Requester's Position

"In response to our request, we were advised by Texas Mutual they would handle no further communications from us (the provider) and advised out of network providers must submit a medical fee dispute resolution with Texas Department of Insurance. No communication or supportive data was received by One Two Stars to indicate why these services should not be processed for payment by Texas Mutual."

Amount in Dispute: \$90,000.00

Requester's Supplemental Position Statement

"Please be advised, our provider was not issued an out of network referral for our services because the services were provided during the approved hip surgery performed by Mathew Morrey who deemed our services during the patient's surgery medically necessary. The surgery was performed at an in-network facility. As there a fewer than 5000 technicians who can perform this service nationwide, the option of the physician choosing an in-network provider at the time of service was not available within a 100-mile radius. We ask Medical Fee Dispute Resolution to take the information presented into consideration and demand the workers comp carrier process the claims for payment."

Respondent's Position

"This claim is in the WorkWell, TX network and the health care service(s) rendered require preauthorization per Rule 134.600. Texas Mutual has no record that the provider obtained preauthorization EMG/Intraoperative Monitoring services. Preauthorization obtained is for revision, right total hip arthroplasty (27134). Health care providers can refer to network preauthorization requirements at texasmutual.com/provider-preauth."

Response Submitted by: Texas Mutual Insurance Company

Findings and Decision

Authority

This medical fee dispute is decided according to Texas Labor Code (TLC) §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. Texas Insurance Code (TIC) Chapter 1305 applies to health care certified networks.

Denial Reason(s)

The insurance carrier reduced or denied payment for the services in dispute with the following claim adjustment code(s):

- CAC-131 - CLAIM SPECIFIC NEGOTIATED DISCOUNT,
- CAC-197 - PRECERTIFICATION/AUTHORIZATION/NOTIFICATION ABSENT.
- 784 - SERVICE EXCEEDS RECOMMENDATIONS OF TREATMENT GUIDELINES (ODG) IN ACCORDANCE WITH RULE 130 & 304.
- 766 - DENIED FOR LACK OF PREAUTHORIZATION OR PREAUTHORIZATION DENIAL IN ACCORDANCE WITH THE NETWORK CONTRACT.
- 734, 765 – INTRAOPERATIVE MONITORING IS NOT RECOMMENDED BY ODG FOR A HIP SURGERY, PREAUTHORIZATION NOT OBTAINED.

Issues

1. Did the requester obtain an out of network referral to treat the in network injured employee?
2. Did the requestor obtain preauthorization from the certified network to treat the injured employee?
3. Is this dispute eligible for medical fee dispute resolution under 28 TAC §133.307?

Findings

1. The requestor filed this medical fee dispute to the DWC asking for resolution pursuant to 28 TAC §133.307 titled *MDR of Fee Disputes*. The authority of the DWC, to resolve matters involving employees enrolled in a certified health care network, is limited to the conditions outlined in the applicable portions of the TIC, Chapter 1305 and limited application of TLC statutes and rules, including 28 TAC §133.307.

TIC §1305.006 titled *INSURANCE CARRIER LIABILITY FOR OUT-OF-NETWORK HEALTH CARE*, states, "An insurance carrier that establishes or contracts with a network is liable for the following out-of-network healthcare 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 §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."

TIC §1305.153 (c) provides that "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 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 the requirements of TIC §1305.006 were met. Consequently, the services in dispute are not eligible for MFDR pursuant to 28 TAC §133.307.

2. The insurance carrier denied the services in dispute due to lack of preauthorization.

The requestor states, "Please be advised, our provider was not issued an out of network referral for our services because the services were provided during the approved hip surgery performed by Mathew Morrey who deemed our services during the patient's surgery medically necessary. The surgery was performed at an in-network facility."

The insurance carrier states, "Health care providers can refer to network preauthorization requirements at texasmutual.com/provider-preauth."

The DWC finds that 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 DWC finds the disputed services are not under the jurisdiction of the DWC and therefore, are not eligible for medical fee dispute resolution under 28 TAC §133.307.

3. The DWC 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 DWC 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 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. The DWC 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

It is ordered that this dispute is not eligible for medical fee dispute resolution under 28 TAC §133.307.

Authorized Signature

_____	_____	June 22, 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, Opt. 3, or email CompConnection@tdi.texas.gov. The party seeking review of the MFDR decision must deliver a copy of the request to all 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** with any other required information listed in 28 TAC §141.1(d).