



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

NUEVA VIDA BEHAVIORAL HEALTH

Respondent Name

SAN ANTONIO WATER SYSTEM

MFDR Tracking Number

M4-23-0689-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

November 18, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 8, 2021 and December 14, 2021	96158 x 2 and 96159 x 2	\$430.00	\$0.00
Total		\$430.00	\$0.00

Requestor's Position

The requestor did not submit a position summary for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.

Amount in Dispute: \$430.00

Respondent's Position

"The provider is not entitled to reimbursement for those dates of service. The referral doctor at box #17 of the CMS-1500s was Dr. Gilbert Gonzales. However, he was not the claimant's treating doctor. Yet, except in an emergency, all healthcare must be approved or recommended by the employee's treating doctor. See section 408.021 of the Texas Labor Code. The provider subsequently changed box # 17 on later CMS-1500s but that does not change the fact that it was Dr. Gonzales who made the referral and not the later named doctor. The provider is not entitled to reimbursement."

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 Texas Administrative Code (TAC) §133.307, sets out the procedures for resolving medical fee disputes.
2. 28 TAC §126.9, sets out the guidelines for choice of treating doctor and liability of payment.
3. 28 TAC §180.22, requires the treating doctor to coordinate the claimant's health care.

Denial Reasons

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

- 183-The referring provider is not eligible to refer the services billed.
- 193 - Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 197 - Precertification/authorization/notification /pre-treatment absent.
- W3 - TDI Level I Appeal means a request for reconsideration under 133.250 of this title or an appeal of an adverse determination under Chapter 19, Subchapter U of this title.
- Notes: Processed as a reconsideration on appeal.
- Note: No record of Gilbert Gonzales being the treating/referral Dr. for this claim no indication or submission of TWCC-53 form change of treating Dr. for this claim.

Issues

1. Is the requestor due reimbursement for CPT codes 96158 and 96159 rendered on December 8, 2021 and December 14, 2021?
2. Was the disputed service referred by the treating doctor?
3. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier denied disputed services with claim adjustment reason codes indicated above.

The insurance carrier states in pertinent part, "The provider is not entitled to reimbursement... The referral doctor at box #17 of the CMS-1500s was Dr. Gilbert Gonzales. However, he was not the claimant's treating doctor."

28 TAC §180.22(c)(1) states, "The treating doctor is the doctor primarily responsible for the efficient management of health care and for coordinating the health care for an injured employee's compensable injury. The treating doctor shall: (1) except in the case of an emergency, approve or recommend all health care reasonably required that is to be rendered to the injured employee including, but not limited to, treatment or evaluation provided through referrals to consulting and referral doctors or other health care providers, as defined in this section."

Texas Labor Code §408.022 titled *Selection of Doctor*, states, "(a) Except in an emergency, the division shall require an employee to receive medical treatment from a doctor chosen from a list of doctors approved by the commissioner. A doctor may perform only those procedures that are within the scope of the practice for which the doctor is licensed. The employee is entitled to the employee's initial choice of a doctor from the division's list."

Review of the Commission's Order dated, December 7, 2021 indicates that the request to change treating doctor was approved from Dr. William W. Janes to Dr. Frances X. Burch. Review of the CMS-1500 indicates that the services were referred by Gilbert Gonzales, D.C.

The DWC finds that the documentation did not support that the disputed services were provided in an emergency situation; therefore, Dr. Burch was responsible for managing the claimant's treatment.

Texas Labor Code §408.022 (e)(4) states, "For purposes of this section, the following is not a selection of an alternate doctor: (4) the selection of a doctor because the original doctor: (A) dies; (B) retires; or (C) becomes unavailable or unable to provide medical care to the employee."

The DWC reviewed the submitted documentation and finds that the referring doctor was Dr. Gonzales. The medical documentation indicates that Dr. Gonzales was the referring doctor of record. Because Dr. Burch is the claimant's Division approved treating doctor, the respondent's denial of payment is supported.

2. Further, 28 TAC §180.22(e) defines a referral doctor as follows: "The referral doctor is a doctor who examines and treats an injured employee in response to a request from the treating doctor."

28 TAC §180.22(d) defines a consulting doctor as "a doctor who examines an injured employee or the injured employee's medical record in response to a request from the treating doctor, the designated doctor, or the division." A consulting doctor is directed to "(1) perform unbiased evaluations of the injured employee as directed by the requestor [emphasis added]..."

Therefore, the authority of the examining doctor is restricted to the terms of the referral by the treating doctor. The insurance carrier's denial reason is supported for this disputed service. As a result, reimbursement cannot be recommended.

3. 28 TAC §126.9(d) states, "If an injured employee wants to change treating doctors, other than exceptions as described in Texas Civil Statutes, Article 8308-4.64, or removal of the doctor from the list, the employee shall submit to the field office handling the claim, reasons why the current treating doctor is unacceptable. Unless medical necessity exists for an immediate change, the submission shall be in writing on a form prescribed by the commission. If the need for an immediate change exists, then the injured employee may notify the field office by telephone. Injured employees who change doctors because the doctor is removed from the list or for one of the exceptions listed in Texas Civil Statutes, Article 8308-4.64, shall immediately notify the commission of the change in the form and format prescribed by the commission."

28 TAC §126.9(f) states, "The commission shall issue an order approving or denying a change of doctor request. This order shall be issued within 10 days after receiving the request and, if a change is approved, shall include an order for the insurance carrier to pay for treatment provided by the approved doctor unless superseded by a subsequent order."

The division finds that the insurance carrier is not liable for payment of the disputed services because: no documentation was submitted to support that the treating doctor on record referred the claimant to the rendering provider.

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 the requester has not established that reimbursement is due.

Order

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

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

February 6, 2023
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 electrónico CompConnection@tdi.texas.gov.