



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

NORTH TEXAS PAIN RECOVERY

Respondent Name

GRAND PRAIRIE ISD

MFDR Tracking Number

M4-23-1189-01

Carrier's Austin Representative

Box Number 44

DWC Date Received

JANUARY 25, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 6, 2022 through September 19, 2022	97799-CP-CA, 90791, 96130, 96131, 96138 and 96139	\$27,395.00	\$0.00
Total		\$27,395.00	\$0.00

Requestor's Position

"Enclosed you will find direct email communications from the network" Network Manager" of GPISD's network showing that out of network approval was given to treat the claimant for the functional recovery program at North Texas Pain Recovery Center. Additionally, these communications demonstrate that the network manager arranged the referral to NTPRC with the treating doctor personally."

Amount in Dispute: \$27,395.00

Requestor's Supplemental Position

"The network "manager" for GPISD's work comp program approved the 'out of network' treatment as demonstrated by the emails attached. Alternatively, the referring physician used the referral 'evaluate and treat.' The referring physician did NOT perform the required assessments to determine whether the injured worker needed WH or CP. He referred the injured worker to North Texas Pain Recovery Center to determine which program was needed as is the requirement of the commissioner's adopted treatment guidelines (ODG)."

Respondent's Position

"At the outset it should be noted that this is a network claim...Dr. Eric Wieser, M.D. is the treating doctor in this matter. On or about June 20, 2022, he examined the claimant and recommended work hardening be initiated. He submitted a referral for the work hardening to be performed out of network (see page 6). That referral for work hardening was approved by the carrier (see page 7). The provider, against the instructions of the treating physician and against the approval of the carrier, decided to perform chronic pain management instead of the approved work hardening. The claimant did not have chronic pain and neither the treating doctor nor carrier requested/ approved a chronic pain management program. As the Requestor failed to adhere to the treatment requested and approved, no additional reimbursement is allowed."

Response Submitted by: White Espey, PLLC

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) §133.305 sets out the general Medical Dispute Resolution guidelines.
2. Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.
3. 28 TAC §§10.120 through 10.122 address the submission of a compliant by a health care provider to the Health Care Network.

Denial Reasons

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

- P12 – Charge for the procedure exceeds the amount indicated in the fee schedule.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.
- R197 – Payment denied/reduced for absence of, or exceeded, precertification and/or authorization.
- T038 – Service not provided by network provider.
- 69 (B13) – The provider has billed for the exact services on a previous bill.
- XR (P12) – The provider or different provider has billed for the exact services on a previous bill where no allowance was originally recommended.
- Note: Service not provided or authorized by designated network/primary care providers.

Issues

1. Did the requester obtain a referral from the certified network to treat the injured employee?
2. 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 requesting resolution pursuant to 28 TAC §133.307 titled *MDR of Fee Disputes*. The authority of the DWC is to apply TLC statutes and rules, including 28 TAC §133.307, is limited to the conditions outlined in the applicable portions of the TIC, Chapter 1305. TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by §1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation."

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."

2. 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 to support that a referral was obtained for the chronic pain management and psych services rendered to the injured employee.

The documentation contained in the medical fee dispute consisted of a copy of the out-of-network bypass authorizing, "Out of Network approval for all preauthorized sessions of Work Hardening at North Texas Pain Recovery Center is bypassed," and issued by network manager, Karen Dalton, CCM. The requestor rendered chronic pain management and psych services to the in network 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 and §1305.103 were met. Consequently, the services in dispute are not eligible for MFDR pursuant to 28 TAC §133.307.

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 dispute may be filed to TDI's 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 may be the appropriate administrative remedy to address fee 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 Division finds that this dispute is not under the authority 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

_____	_____	April 10, 2023
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 512-804-4812.