



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Donald Martin McPhaul

**Respondent Name**

Space Exploration Technologies Corp

**MFDR Tracking Number**

M4-23-1660-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

March 14, 2023

### Summary of Findings

| Dates of Service | Disputed Services | Amount in Dispute | Amount Due        |
|------------------|-------------------|-------------------|-------------------|
| May 24, 2022     | 99204             | \$293.23          | \$293.23          |
| May 24, 2022     | 95886             | \$357.50          | \$357.50          |
| May 24, 2022     | 95911             | \$448.59          | \$386.18          |
| <b>Total</b>     |                   | <b>\$1,099.32</b> | <b>\$1,036.91</b> |

### Requestor's Position

"If required by Rule 134.600, the pre-authorization number is listed above. If pre-authorization was not performed it is in adherence to Rule 134.600 in that pre authorization was not required for this CPT code for this service or treatment."

**Amount in Dispute:** \$1,099.32

### Respondent's Position

"CorVel maintains the requestor, Donald Martin McPhaul, is not entitled to reimbursement for date of service 05/24/2022 in the amount of \$1,093.32 based on failure to obtain out of network approval from the Texas CorCare Network prior to services being rendered in accordance with TIC Sec. 1305.103(e)."

Response submitted by: Corvel

## 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 §133.305 sets out the procedures for resolving medical disputes.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §134.203 sets out the reimbursement for the service in dispute.
4. 28 Texas Administrative Code §127.10 sets out the procedures for designated doctors.
5. Texas Insurance Code §1305.003 sets limitations on applicability of Texas Insurance Code Chapter 1305.
6. Texas Labor Code §408.0041 grants the Division of Workers' Compensation the authority to order designated doctor examinations.

### Denial Reasons

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

- 242 – Services not provided by network/primary care prov.
- NNP – Out-of-network approval not requested prior to rendering services.
- W3 – Appeal/Reconsideration.
- 25 – Separate E/M Service, Same Physician.
- ZZ – Timely Filing rule reviewed and suppressed.

### Issues

1. Is insurance carrier's denial supported?
2. Is reimbursement due for the services in dispute?

### Findings

1. The requestor is seeking reimbursement for professional medical services rendered in May of 2022. The insurance carrier denied the services for no out-of-network authorization and services not rendered by a network provider.

CorvVel states the healthcare provider was required to obtain "authorization" from Texas CorCare Network as required by Texas Insurance Code Sec. 1305.103.

The referral for the disputed service was from Dr, Danielle Counter, the injured employees treating doctor. Such referrals are authorized under the Texas Labor Code and division rules. Texas Insurance Code Chapter 1305 which contains a provision limiting applicability of certain 1305 Network requirements when they adversely affect powers granted to the division under the Labor Code.

Texas Insurance Code §1305.003 titled LIMITATIONS ON APPLICABILITY states that:

- (a) This chapter [TIC 1305] does not affect the authority of the division of workers' compensation of the department to exercise the powers granted to the division under Title 5, Labor Code, that do not conflict with this chapter [TIC 1305].

Texas Labor Code §408.0041 grants the division the exclusive authority to order a designated doctor to examine an injured employee and resolve questions or disputes over the injured employee's medical condition.

DWC Rule 28 Texas Administrative Code §127.10 in turn authorizes designated doctors to make referrals when necessary to resolve the question(s) the designated doctor was ordered to address.

The division concludes that health care provider was not required to obtain an authorization from Texas CorCare network.

2. DWC Rule 28 Texas Administrative Code §134.204 (c) states in pertinent part, to determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. For the service categories of Evaluation and Management, Physical Medicine, when performed in an office setting, the established conversion factor for CY 2022 is \$34.61.

- 99204 – Office or other outpatient visit for the evaluation and management of a new patient, which requires a medically appropriate history and/or examination and moderate level of medical decision making. When using time for code selection, 45-59 minutes of total time is spent on the date of encounter.
  - CMS Physician fee schedule allowable for Harlingen Texas \$162.91
  - $DWC \text{ Conversion Factor} / CMS \text{ Conversion Factor} \times CMS \text{ allowable} \times \text{number of units}$  or
  - $62.46 / 34.61 \times 162.91 = \$294.00$
- 95886 – Needle electromyography, each extremity, with related paraspinal areas, when performed, done with nerve conduction, amplitude and latency/velocity study, complete, five or more muscles studied, innervated by three or more nerves of four or more spinal levels.
  - CMS Physician fee schedule allowable for Harlingen, Texas \$99.31
  - $62.46 / 34.61 \times \$99.31 \times 2 \text{ units} = \$358.45$
- 95911 – Nerve conduction studies; 9-10 studies
  - CMS Physician fee schedule allowable for Harlingen, Texas \$213.99
  - $62.46 / 34.61 \times \$213.99 = \$386.18$

The total MAR for the disputed services is \$1,038.63. The requestor is seeking \$1,036.91 for the disputed services. This amount is recommended.

### 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 requestor has established that additional reimbursement is due.

### **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that Space Exploration Technologies Corp must remit to Donald Martin McPhaul \$1,036.91 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
June 8, 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](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).

