



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

CENTER FOR SPECIALTY SURGERY

Respondent Name

HARRIS COUNTY

MFDR Tracking Number

M4-23-1732-01

Carrier's Austin Representative

Box Number 21

DWC Date Received

March 16, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
November 11, 2022	26615-F4, 76000-TC, 64450-59, and 99070	\$64,363.75	\$0.00
Total		\$64,363.75	\$0.00

Requestor's Position

"This claim was denied by AS&G for lack of pre-authorization. The patient had emergency surgery at our facility, West Gray Center for Special Surgery on 11/11/2022. West Gray Center for Special Surgery is disputing denial for the following reasons, surgery was performed in time limit to be considered an emergency. Also, we contracted patient adjuster, Ann Adams, and was given approval to treat patient. An appeal was mailed to AS&G on 01/17/2023 and denied on 2/08/2023, attached documentation and medical records to support dispute."

Amount in Dispute: \$64,363.75

Respondent's Position

"The surgery was not emergency health care... Division Rule 133.2(5)(a). In this case, the patient was not experiencing severe pain. The injury occurred... and the patient did not seek evaluation with Requestor until 11/10/22. On that date, treatment notes by Mark Khorsandi, D.O. report that the patient was in 'no acute distress.' Dr. Khorsandi also reported that surgery was not the only option and doing nothing was an option: The following treatment options were discussed with the patient, including but not limited to: do nothing, observe, crif, or orif of fracture... The patient chose to have surgery...it was not performed until 11/11/22... Because Requestor did not obtain preauthorization as required and Harris County denied payment..."

Response Submitted by: Stone, Laughlin & Swanson

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 §134.203 sets out the fee guideline for professional medical services.
3. 28 TAC §134.600 sets out the preauthorization, concurrent utilization review, and voluntary certification of health care.

Denial Reasons

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

- 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 1 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: Reconsideration of EOB: 3618106 continue to deny or appeal.

Issues

1. Are the Insurance Carrier's denial reason(s) supported?
2. Is the Requestor entitled to reimbursement?

Findings

1. The requestor seeks reimbursement for CPT Codes 26615, 76000, 64450 and 99070 rendered on November 11, 2022.

The insurance carrier denied the disputed services due to lack of preauthorization.

28 TAC §134.600(a)(7) states, "Preauthorization: a form of prospective utilization review by a payor or payor's utilization review agent of health care services proposed to be provided to an injured employee."

28 TAC 134.600(f) states in pertinent part, "(f) The requestor or injured employee shall request and obtain preauthorization from the insurance carrier prior to providing or receiving health care listed in subsection (p) of this section. Concurrent utilization review shall be requested prior to the conclusion of the specific number of treatments or period of time preauthorized and approval must be obtained prior to extending the health care listed in subsection (q) of this section..."

28 TAC §134.600 (c)(1)(A-B), states, 'The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur:

- (A) an emergency, as defined in Chapter 133 of this title (relating to General Medical Provisions);
- (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care..."

28 TAC §133.2 (5)(A-B), defines emergency, "Emergency—Either a medical or mental health emergency as follows:

- (A) a medical emergency is the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could reasonably be expected to result in:
 - (i) placing the patient's health or bodily functions in serious jeopardy, or
 - (ii) serious dysfunction of any body organ or part;
- (B) a mental health emergency is a condition that could reasonably be expected to present danger to the person experiencing the mental health condition or another person."

28 TAC §134.600 (p)(12) states, "Non-emergency health care requiring preauthorization includes:

- (2) outpatient surgical or ambulatory surgical services as defined in subsection (a) of this section;

28 TAC §134.600 states, "(a) The following words and terms when used in this chapter shall have the following meanings, unless the context clearly indicates otherwise... (2) Ambulatory surgical services: surgical services provided in a facility that operates primarily to provide surgical services to patients who do not require overnight hospital care... (6) Outpatient surgical services: surgical services provided in a freestanding surgical center or a hospital outpatient department to patients who do not require overnight hospital care."

Review of the medical documentation submitted by the requestor does not document or meet the requirements set out in 28 TAC §133.2 to override the requirements under 28 TAC §134.600. As a result, the DWC finds that the requestor was required to obtain preauthorization for the disputed services. Because preauthorization was required and not obtained, the DWC finds that the requestor is not entitled to reimbursement.

2. The requestor submitted insufficient documentation to support that reimbursement is due. As a result, the requestor is entitled to \$0.00 for the disputed services.

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 established that reimbursement of \$0.00 is due.

Order

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

Authorized Signature

		June 2, 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 1-800-252-7031, opción 3 o correo electronico CompConnection@tdi.texas.gov.