



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Erwin Amilcar Cruz

**Respondent Name**

Zurich American Insurance Co

**MFDR Tracking Number**

M4-23-1925-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

April 5, 2023

### Summary of Findings

<b>Dates of Service</b>	<b>Disputed Services</b>	<b>Amount in Dispute</b>	<b>Amount Due</b>
August 15, 2022	96116	\$8.70	\$8.70
August 15, 2022	96132	\$12.05	\$12.05
August 15, 2022	96133	\$46.76	\$46.76
August 15, 2022	96136	\$4.09	\$4.09
August 15, 2022	96137	\$666.72	\$35.15
<b>Total</b>		<b>\$738.32</b>	<b>\$106.75</b>

## Requestor's Position

"The carrier has reduced this claim inappropriately and not in accordance and compliance with TDI-DWC Rule 133 and 134. The carrier has not responded or denied this claim in its entirety following our Request for Reconsideration."

**Amount in Dispute:** \$738.32

## Respondent's Position

"...the claimant is in a certified health care network. The network is the Zurich services Corp. HCN as indicated on the carrier's EOBs. The certified health care network has its own medical fee guidelines which the providers' are required to follow based upon their contract with the network. The Medical Review Division has jurisdiction over medical fee disputes but only those involving non-network medical fee disputes. See rule 133.305(a)(4). Moreover, section 1305.401 of the Texas Workers' Compensation Health Care Network Act provides a complaint system in which disputes are resolved. The provider should pursue medical fee dispute through the network itself."

**Supplemental response, May 8, 2023.** "...the carrier has issued an additional payment. We are attaching a copy of an EOB dated April 18, 2023 recommends additional payment of \$633.38. that would bring the total payment to \$1,993.82."

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 §133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 Texas Administrative Code §134.203](#) sets out the reimbursement guidelines for professional medical services.
3. [28 Texas Administrative Code § 127.10](#) sets out the procedures for designated doctors.
4. [Texas Insurance Code §1305.003](#) sets limitation on applicability of Texas Insurance Code Chapter 1305.
5. [Texas Labor Code §408.0041](#) grants the Division of Workers' Compensation the authority to

order designated doctor examinations.

### Denial Reasons

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

- 131 – Claim specific negotiated discount,
- 95 – Plan procedures not followed,
- P13 – Payment reduced or denied based on Workers’ Compensation Jurisdictional Regulations or payment policies,
- W3 – In accordance with TDI-DWC Rule 134.804, this bill has been identified as a request for reconsideration or appeal,

### Issues

1. Did the respondent maintain their position?
2. Did the respondent support PPO contract?
3. What is the rule applicable to reimbursement?
4. Is the requestor entitled to additional reimbursement?

### Findings

1. The requestor is seeking additional reimbursement of \$738.32 for professional medical services rendered in August 2022. The insurance carrier reduced the allowed amount based on claim specific negotiated discount. The respondent states in pertinent part, “The provider should withdraw his request for Medical Fee Dispute Resolution or the Medical Fee Dispute Resolution or the Medical Review Division should dismiss it because the DWC 60 process is limited to non-network medical fee disputes.” However, the insurance carrier supplemented their payment on April 18, 2023. The claim not being eligible for MFDR was not maintained. The maximum allowable reimbursement calculation is found below.
2. Review of the submitted explanation of benefits indicates a PPO reduction was made on the original payment and the supplemental payment. Regarding testing referred by a treating physician, Texas Insurance Code Chapter 1305 contains a provision which limits 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 any 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.

Regarding Evaluation and testing performed as a result of a designated doctor referral, the appropriate remedy for review is the division's medical fee dispute resolution process. The PPO reduction was not supported.

3. DWC Rule 28 TAC 134.203(c)(1) states in pertinent part, to determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. For service categories of Evaluation & Management, Physical Medicine, when performed in an office setting, the established conversion factor to be applied for CY 2022 is \$34.61. The MAR is calculated as Workers' Compensation Conversion Factor/Medicare Conversion Factor multiplied by the CMS Physician fee schedule for the location or,
  - 96116 –  $62.46/34.61 \times \$96.66$  for Dallas, Texas = \$174.44
  - 96132 –  $62.46/34.61 \times \$133.90$  for Dallas, Texas = \$241.65
  - 96133 x 5 units –  $62.46/34.61 \times 103.92 \times 5$  for Dallas, Texas = \$937.71
  - 96136 –  $62.46/34.61 \times 45.44$  for Dallas, Texas = \$82.00
  - 96137 x 9 units –  $62.46/34.61 \times \$41.16 \times 9$  = \$668.53
  - Total MAR \$2,104.30
4. The total Maximum Allowable Reimbursement is \$2,104.30. The insurance carrier paid \$1,993.82. The requestor is seeking \$106.75. 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 Zurich American Insurance Co must remit to Erwin Amilcar Cruz \$106.75 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).