



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Neal Talbott, M.D.

**Respondent Name**

Indemnity Insurance Co. of North America

**MFDR Tracking Number**

M4-23-3231-01

**Carrier's Austin Representative**

Box Number 15

**DWC Date Received**

August 21, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 16, 2023	Examination to Determine Maximum Medical Improvement and Impairment Rating – 99456-WP	\$800.00	\$800.00

### Requestor's Position

**“REFERRAL FOR THIS SERVICE: NO NETWORK REQUIREMENT AND NO PREAUTHORIZATION:**

This service was referred by the examinee’s treating doctor for purpose of Maximum Medical Improvement and Impairment Rating and billed accordingly.

“DWC Rule 130.1 ... indicates the treating doctor may refer the injured employee for evaluation of MMI and/or permanent whole body impairment to a doctor in place of the treating doctor and that there is no requirement for the treating doctor to refer the examinee to a doctor that is in the same treatment network as the treating doctor but only that the referral doctor performing the certifying examination be an authorized doctor that is certified ... In this case, the provider IS NOT required by rule to be part of the same healthcare network as the treating doctor.”

**Amount in Dispute:** \$800.00

## Respondent's Position

"CorVel maintains the requestor, Neal Bevan Talbott (Genesis), is not entitled to reimbursement for date of service 05/16/2023 in the amount of \$800 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).

"The Requestor references Rule §130.1 and indicates this rule does not require the Treating Doctor (TD) to refer to a doctor in the same network only that the referral doctor is authorized to certify MMI. Chapter 130 in and of itself indicates the referral doctor must be authorized by TDI-DWC if the TD is not authorized. Authorization to certify MMI/IR has nothing to do with a Claim's Network Status. Rules governing Workers' Compensation Networks are found under Insurance Code Chapter 1305.

"As the Injured Worker (IW) is a participant in the Corvel Texas Certified Healthcare Network, section 1305.103 becomes applicable after it is determined that the referral doctor is authorized to certify MMI and provide Impairment – if applicable ...

"As the certification of MMI/IR is not emergent care, the TD was required – per network rule and contractual agreement – to refer the IW to an in-network provider to certify MMI/IR ...

"Although the injured worker referenced above is an in-network employee the Requestor, Neal Bevan Talbott (Genesis), is not a contracted group. To date, CorVel has no record of an out-of-network request from the network Treating Doctor and/or Dr. Talbot/Genesis for approval by the CorVel Texas CorCare Network for out-of-network health care prior to services being rendered, by the Requestor."

**Response Submitted by:** CorVel

## Findings and Decision

### Authority

This medical fee dispute is decided according to [Texas Labor Code \(TLC\) §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 §134.250](#) sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.

## Denial Reasons

The insurance carrier denied the 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.
- Comments: "Per the Labor Code: 401.011(19) 'Health care' includes all reasonable and necessary medical aid, MEDICAL EXAMS, medical treatments, medical diagnoses, MEDICAL EVALUATIONS, and medical svcs. This is a medical evaluation. Claim is covered by TX CorCare HCN Per Sec 1305.006(3) a carrier is liable for out-of-netowrk healthcare only if the non-network HCP was referred from the IE's treating doctor and that referral has been APPROVED by the network pursuant to Sec 1305.103"
- Comments: "This claim is part of the Corvel Texas Healthcare Network (TXHCN)"
- Comments: "Per the Labor Code: 401.011(19) 'Health care' includes all reasonable and necessary medical aid, MEDICAL EXAMS, medical treatments, medical diagnoses, MEDICAL EVALUATIONS, and medical svcs. This is a medical evaluation. Claim is covered by TX CorCare HCN"
- Comments: "Per Sec 1305.006(3) a carrier is liable for out-of-network healthcare only if the non-netowrk HCP was referred from the IE's treating doctor and that referral has been APPROVED by the network pursuant to Sec 1305.103. No OON approval submitted."

## Issues

1. Is the insurance carrier's denial of payment based on network status supported?
2. Is Neal Talbott, M.D. entitled to reimbursement for the services in question?

## Findings

1. The requestor, Dr. Talbott submitted this medical fee dispute to DWC for resolution according to 28 TAC §133.307. The dispute concerns an examination to determine maximum medical improvement and impairment rating as referred by the treating doctor and provided by the requestor on May 16, 2023. The insurance carrier denied payment, stating that the services were not provided by the network or primary care provider.

Per 28 TAC §§133.305 and 133.307, medical fee dispute resolution by DWC is limited to non-network and certain out-of-network health care. DWC finds that the insurance carrier failed to provide documentation to support that the claim in question was part of a certified health care network as outlined in the applicable portions of TIC, Chapter 1305.

DWC finds that the insurance carrier's denial of payment is not supported.

2. Because the insurance carrier failed to support its denial of payment for the services in question, Dr. Talbott is entitled to reimbursement.

The submitted documentation supports that Dr. Talbott performed an evaluation of maximum

medical improvement. 28 TAC §134.250(3)(C) states that the maximum allowable reimbursement (MAR) for this examination is \$350.00.

Review of the submitted documentation finds that Dr. Talbott performed impairment rating evaluations of the upper extremities and lower extremities with range of motion testing. 28 TAC §134.250(4)(C)(ii) defines the fees for the calculation of an impairment rating for musculoskeletal body areas. The MAR for the evaluation of the first musculoskeletal body area performed with range of motion is \$300.00. The MAR for the evaluation of subsequent musculoskeletal body areas is \$150.00 each.

The total allowable reimbursement for the services in question is \$800.00. 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 reimbursement of \$800.00 is due.

### **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed services. It is ordered that Indemnity Insurance Co. of North America must remit to Neal Talbott, M.D. \$800.00 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

November 30, 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 three 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 tres o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).