

**Dispute Resolution when  
Medical Bills are Denied for  
Compensability, Extent of  
Injury, Relatedness, or Liability  
Part II**

**Health Care Provider Outreach**

# Disclaimer

This presentation is for educational purposes only and provides general information. It is not a substitute for a full review of statutes and rules.

System participants are responsible for knowing and complying with the applicable sections of the Texas Insurance Code (Insurance Code), Texas Labor Code (Labor Code) and Texas Administrative Code (TAC).

Any opinions expressed by the speakers are personal and do not constitute or reflect any statement of policy by the Texas Department of Insurance, Division of Workers' Compensation (DWC).

# Overview

- Benefit dispute resolution for health care providers (HCP) as subclaimants.
- Steps for participating in benefit dispute resolution for medical bills denied for compensability, extent of injury, relatedness, or liability (CERL).
- DWC Resources.

# HCP - Subclaimant

A HCP may become a party to a proceeding as a subclaimant and seek final adjudication from DWC on:

- compensability,
- extent of injury,
- relatedness of charges, or
- liability issues.

# Can a HCP participate in benefit dispute resolution?

Yes, a HCP may pursue dispute resolution as a subclaimant, if they:

- provided a benefit (health care service); and
- received a denial for CERL.

Labor Code Section (Sec.) 409.009. *Subclaims*

28 TAC Sec. 140.6. *Subclaimant Status: Establishment, Rights, and Procedures*

# Benefit Dispute Resolution Proceedings

A proceeding conducted by a presiding officer to resolve one or more benefit disputes.

- Benefit review conference (BRC).
- Contested case hearing (CCH) or arbitration.
- Appeals panel review.

# Can a HCP do this without the injured employee?

Yes, if:

- there is no prior written agreement between the injured employee and the insurance carrier;
- no final decision by DWC on the issue in dispute;

# Can a HCP do this without the injured employee? (cont'd)

- insurance carrier has denied with an explanation of benefits (EOB), Notice of Denial of Compensability/Liability, Refusal to Pay Benefits (PLN01) or Notice of Disputed Issue(s) and Refusal to Pay Benefits (PLN11); and
- the injured employee is not pursuing dispute resolution with reasonable diligence.

Steps

# Participating in the DWC Benefit Dispute Resolution Process

# Steps to Participate in the Benefit Dispute Resolution Process

Before submitting a request for a BRC:

1. Try to resolve the disputed issue with the insurance carrier by requesting reconsideration (28 TAC Sec. 133.250. *Reconsideration of Payment of Medical Bills*).
  - Document all reasonable attempts to resolve the issue (28 TAC Sec. 141.1. *Requesting and Setting a Benefit Review Conference*).
  - Provide pertinent information.



# Steps to Participate in the Benefit Dispute Resolution Process

Pertinent information examples:

- Medical records;
- Emergency room reports; or
- Causation analysis from treating doctor.

# Causation Analysis

- Cause of injury (mechanism of injury).
- Analysis of clinical findings and timeline.
- Supporting medical literature.

# Causation Analysis Resources for Doctors

- “Explaining the Compensable Injury” video and slideshow.
- Sample treating doctor report.
- Summary of best practices for preparing analyses.
- Resources for obtaining evidence.

[tdi.texas.gov/wc/hcprovider/causation.html](https://tdi.texas.gov/wc/hcprovider/causation.html)

# Steps to Participate in the Benefit Dispute Resolution Process

2. Notify the injured employee in writing, stating:
  - intent to pursue a claim for reimbursement of a benefit;
  - warning that a decision rendered may be binding against the injured employee, and
  - contact information for the Office of the Injured Employee Counsel (OIEC).

# OIEC Contact Information

An injured employee pursuing benefit dispute resolution may receive ombudsman assistance by:

Email [oiecinbox@oiec.texas.gov](mailto:oiecinbox@oiec.texas.gov)

Call 1-866-EZE-OIEC (1-866-393-6432)

Visit the OIEC website

[oiec.texas.gov](http://oiec.texas.gov)



# Steps to Participate in the Benefit Dispute Resolution Process

3. Submit DWC Form-045, *Request to schedule, reschedule or cancel a benefit review conference (BRC)*, to DWC and the insurance carrier identifying yourself as a subclaimant.
4. Complete and follow all the form instructions, include supporting documentation and a signature in the “certify with your signature” section.

# Request for a BRC

Include with the DWC Form-045:

Documentation of your request for reconsideration attempting to resolve the disputed issues, including:

- correspondence, emails, faxes, records of telephone contacts, or
- summaries of meetings or telephone conversations.

# Request for a BRC

Include with the DWC Form-045:

- copy of your letter sent to the injured employee, and
- medical bills, corresponding EOBs and PLNs.

NOTE: Do not include pertinent information (medical records).

# Setting a BRC

After receipt of the request, DWC will:

- determine if request is complete;
- if incomplete, DWC will notify parties with a letter stating reasons why the BRC is denied; and
- if complete, set a BRC within 40 days (20 days, if DWC decides an expedited BRC is needed).

28 TAC Sec. 141.1. *Requesting and Setting a Benefit Review Conference*

# Exchanging Information

Send a copy of pertinent information to opposing party or parties and DWC.

- DWC will send a “Set Notice” (DR01) to the parties with instructions.
- Know the deadlines to exchange information which is generally, once BRC is set, 10 days to send to other parties, and at least 14 days before BRC to DWC.
- You are responsible for sending information securely, labeling correctly and do not send multiple copies.

28 TAC Sec. 141.4. *Sending and Exchanging Pertinent Information*



# Preparing for a BRC

- Have a copy of all information sent to request the BRC and exchanged.
- Know whether this is a dispute of compensability, extent of injury, relatedness of services or liability.
- Be able to discuss any of the pertinent information including medical records, causation analysis for compensability, extent of injury or relatedness information.



# Preparing for a BRC

Know and be able to discuss:

- the date of service;
- treatment and procedure code descriptions and how each service is relatedness to the compensable diagnoses;
- diagnoses codes and the descriptions; and
- maximum allowable reimbursement for the denied medical bill(s).

# Preparing for a BRC

- All BRCs are held virtually unless there is just cause to have the BRC in person (if you do not have internet access you can participate by phone).
- Questions can be directed to 512-804-4010.



# What to expect at a BRC

Virtual BRCs are set for 45 minutes.

Individuals that may be present at the BRC:

- injured employee and their representative;
- insurance carrier's representative;
- other subclaimants;
- employer; and
- DWC hearings benefit review officer (BRO).

# What to expect at a BRC

The BRO will help the parties:

- identify the disputes;
- discuss information and facts;
- get more information if needed; and
- work to reach an agreement DWC Form-024, *Benefit Dispute Agreement*.

Visit “Benefit Review Conference” topic on the DWC website for more information and see 28 TAC Sec.141.5. *Description of the Benefit Review Conference*.

[tdi.texas.gov//wc/idr/brc.html](http://tdi.texas.gov//wc/idr/brc.html)

# What to expect at a BRC

- Agreement reached: DWC Form-024, *Benefit Dispute Agreement* is used.
- Agreement not reached: you may request a CCH, but it is at the BRO's discretion.
- Limit of 2 BRCs prior to a CCH.

28 TAC Sec. 141.7. *Division Actions After a Benefit Review Conference*

# What is a CCH?

CCH is a formal hearing conducted by a DWC Administrative Law Judge (ALJ) who makes a decision about the disputed issue(s) that were not resolved at the BRC.

Visit "Contested Case Hearings" on the DWC website for more information, including a "*Practices and Procedures Relating to Contested Case Hearings*" resource document and 28 TAC Chapter 142. *Dispute Resolution – Benefit Contested Case Hearing.*

[tdi.texas.gov//wc/idr/cch.html](http://tdi.texas.gov//wc/idr/cch.html)

# Can a HCP participate in a CCH without the injured employee?

Yes, a subclaimant must show the injured employee:

- was provided written notice;
- was contacted and is not pursuing the dispute with reasonable diligence; or
- could not be contacted.

# CCH Decision

- Following the CCH, you will receive the ALJ's written decision and order.
- A CCH decision not appealed to the Appeals Panel becomes final at the end of the 15th working day after the date received from the hearings division.

# CCH Decision

- Parties shall comply with a final decision and order generally within 20 days of the date it becomes final.
- Payment of medical benefits pursuant to a decision shall be made in accordance with Labor Code Sec. 408 and 413.

# Appeals Panel Review

3<sup>rd</sup> and final level in the DWC dispute resolution process

## Review:

- Written statements from the parties describing their position.
- ALJ's decision.
- Record from the CCH.

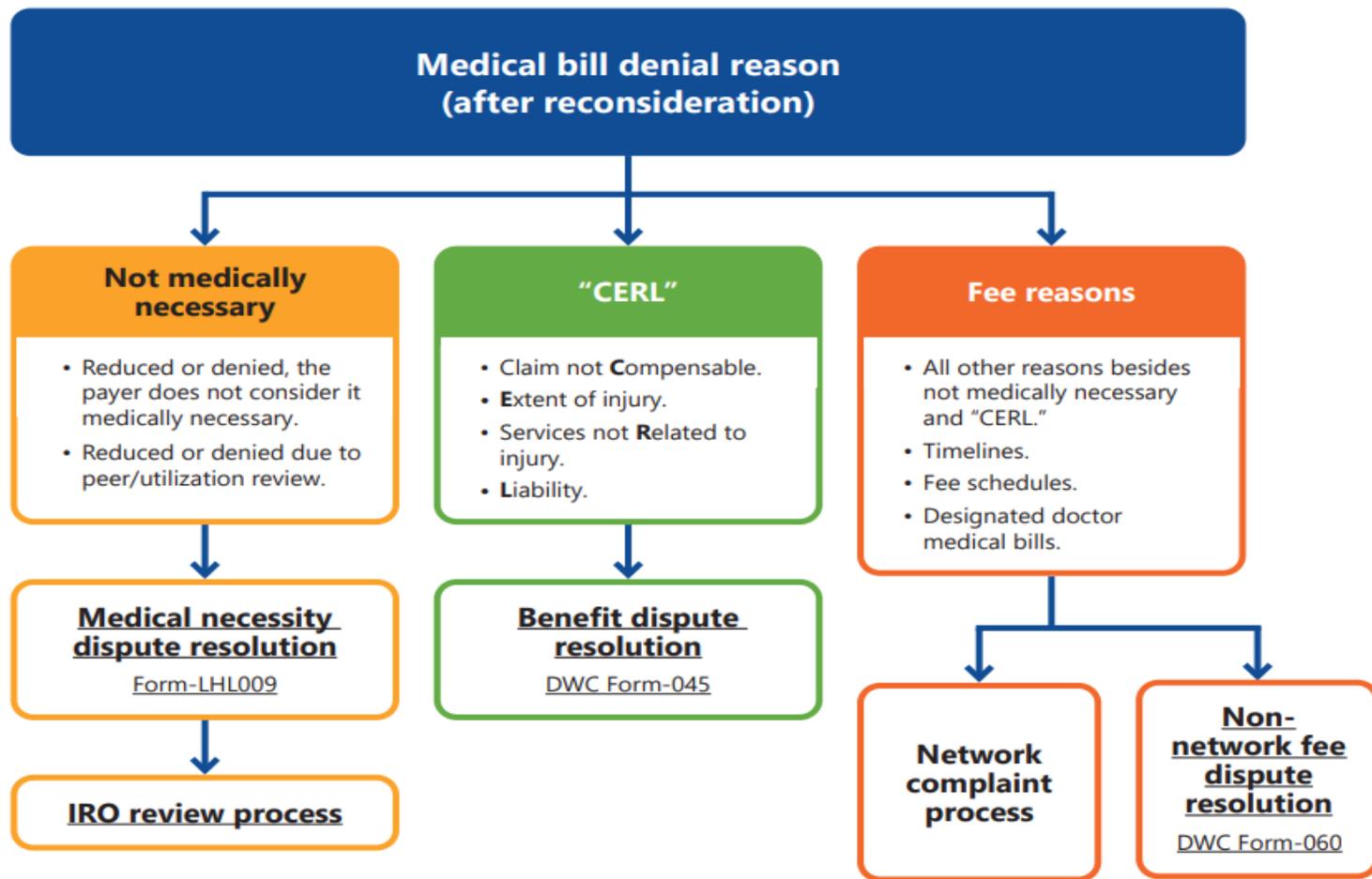
Appeals panel issues a written decision.

28 TAC Chapter 143. *Dispute Resolution Review by Appeals Panel*

# Judicial Review

If a party disagrees with the DWC Appeal Panel's decision, the decision may be appealed to a court of law for a decision.

# DWC Resources



Revised 07/24

# DWC Fast Facts for Health Care Provider Subclaimants

|           |                    |                              |           |                       |          |
|-----------|--------------------|------------------------------|-----------|-----------------------|----------|
| Insurance | State Fire Marshal | <b>Workers' Compensation</b> |           |                       |          |
| Home      | Injured Employees  | Empleados Lesionados         | Employers | Health Care Providers | Carriers |

Home > Workers' Compensation > Health care provider training and resources > Medical billing

About DWC

Commissioner of Workers' Compensation

Executive staff contacts

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Rules

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Memos to system participants

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## Medical billing

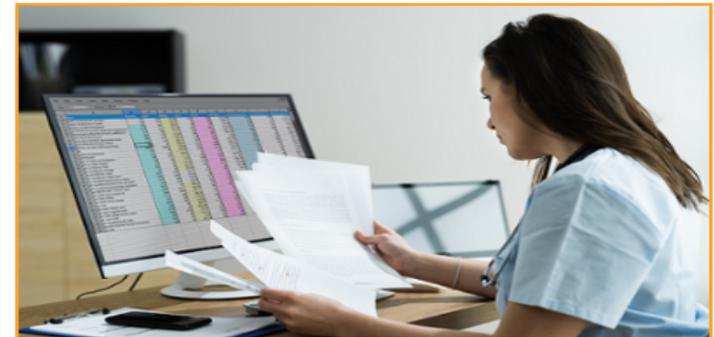
The rules in [28 Texas Administrative Code \(TAC\) Chapter 133](#) apply to both non-network and network medical bills with some network exceptions.

[General rules for medical billing and documentation](#) ▶

[Requirements for paper and electronic medical bill processing](#) ▶

[Medical bill and preauthorization denials](#) ▼

- [Disputes vs. complaints fast facts](#)
- [Steps for dispute resolution of a medical bill denial](#)
- [Medical necessity dispute resolution](#)
  - [Non-network preauthorization/concurrent review process flowchart](#)
  - [Non-network retrospective review process flowchart](#)
  - [Independent review organization \(IRO\) process](#)
- [Benefit dispute resolution \(compensability, extent of injury/relatedness or liability\)](#)
- [Medical fee dispute resolution](#)
- [Federal military treatment facility disputes](#)



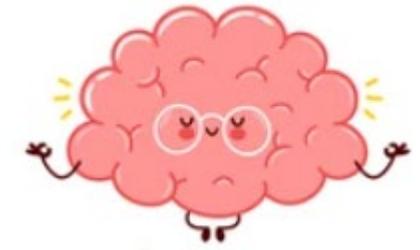
# Review Summary

- ✓ Benefit Dispute Resolution for HCPs as subclaimants.
- ✓ Steps for participating in benefit dispute resolution.
- ✓ DWC Resources.



**TRAIN  
YOUR  
BRAIN**

# Let's flex your knowledge!



# Contact Us



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800-252-7031 option 3

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