



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645
(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Synergy Chiropractic

Respondent Name

TASB Risk Management

MFDR Tracking Number

M4-09-3550

Carrier's Austin Representative

Box Number 47

MFDR Date Received

December 1, 2008

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Due to the approved DWC-53 Dr. Guajardo began to treat this patient. Dr. Guajardo saw this patient three times: 08-07-08, 08-08-08 and 08-12-08. It must be noted that the carrier has reimbursed for the DOS 08-12-08. Dr. Guajardo discontinued treatment as per the TDI letter."

Amount in Dispute: \$973.28

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "[The injured employee's] signature on the form is an acknowledgment that she must use Alliance providers or she may be responsible for any non-Alliance expenses..."

Since all changes of treating physicians on Alliance contracted employers must be approved by the Alliance, the approval by DWC is not valid for treatment rendered by Dr. Guajardo."

Response Submitted by: TASB Risk Management Fund

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 7 – 8, 2008	Evaluation & Management, new patient (99204) Radiology (72040) Work Status Report (99080-73) Functional Capacity Evaluation (97750-FC)	\$973.28	\$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §124.2, effective June 5, 2003, 28 TexReg 4285, sets out requirements for carrier reporting and notification.
- 28 Texas Administrative Code §133.305, effective May 25, 2008, 33 TexReg 3954, sets forth general provisions regarding dispute of medical bills.

3. 28 Texas Administrative Code §133.307, effective May 25, 2008, 33 TexReg 3954, sets out the procedures for resolving medical fee disputes.
4. 28 Texas Administrative Code §141.1, effective June 7, 1991, 16 TexReg 2876, sets out the procedures for requesting a benefit review conference.
5. Texas Labor Code §408.021, effective September 1, 1993, sets out provisions regarding entitlement to medical benefits.
6. Texas Labor Code §413.031, effective September 1, 2007, sets out provisions regarding medical dispute resolution.
7. The services in dispute were reduced or denied by the respondent with the following reason codes:
 - 185 – The rendering provider is not eligible to perform the service billed.
 - Comments: “Per Political Subdivision Workers’ Compensation Alliance.”
 - Comments: “Services by a non-Alliance contracted provider are not covered unless prior approval to treat has been obtained from TASB.”
 - W12 – Extent of injury. Not finally adjudicated.
 - Comments: “Carrier has disputed the change of physicians to a non-Alliance physician.”
 - 150 – Payment adjusted because the payer deems the information submitted does not support this level of service.
 - Comments: “This the interim FCE completed and 2 hours or 8 units is allowed. This exceeds the 8 units allowed.”
 - W4 – No additional reimbursement allowed after review of appeal/reconsideration.
 - Comments: “11/21/08-Original denial stands for non-Alliance provider. This applies to all lines of the bill.”
 - Comments: “11/18/08 – Services are for a Non_Alliance provider, services were not approved per TASB.”
 - Comments: “11/18/08 – DX code 723.4 are disputed conditions”

Issues

1. Are there unresolved issues of compensability, extent of injury, or liability regarding the services in dispute?
2. Can the Division adjudicate the medical fee issues for date of service August 8, 2008 in this dispute?

Findings

1. 28 Texas Administrative Code §133.305(a)(4) defines a medical fee dispute as “A dispute that involves an amount of payment for non-network health care rendered to an injured employee (employee) that has been determined to be medically necessary and appropriate for treatment of that employee's compensable injury...”

28 Texas Administrative Code §133.305(b) requires that:

If a dispute regarding compensability, extent of injury, liability, or medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding compensability, extent of injury, liability or medical necessity shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and 408.021.

28 Texas Administrative Code §133.307(e)(3)(H) requires that if the carrier has raised a dispute pertaining to compensability, extent of injury, or liability for the claim, “the Division shall notify the parties of the review requirements pursuant to §124.2 of this title, and will dismiss the request until those disputes have been resolved by a final decision, inclusive of all appeals.”

The appropriate dispute process for unresolved issues of compensability, extent of injury, or liability requires the health care provider to submit a request for a benefit review conference pursuant to 28 Texas Administrative Code §141.1. All outstanding issues regarding compensability, extent of injury, or liability for the disputed services must be resolved before requesting medical fee dispute resolution.

Review of the submitted documentation finds that there are unresolved issues of extent of injury for the services in this dispute for date of service August 8, 2008. No documentation was presented to support that the issues of extent of injury have been resolved for this date of service.

2. The requestor has failed to support that the disputed services for date of service August 8, 2008 are eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307.

Conclusion

For the reasons stated above, the requestor has failed to establish that the outstanding issues concerning compensability, extent of injury, or liability for the injured employee’s workers’ compensation claim with respect to the disputed medical services have been resolved through the required dispute resolution process as set forth in Texas Labor Code Chapter 410 before submitting a request for medical fee dispute resolution regarding the same services. Consequently, medical fee dispute resolution staff has no authority to consider the disputed fee issues or to order any payment in this medical fee dispute. As a result, no amount is ordered.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services in dispute.

Authorized Signature

	Laurie Garnes	February 29, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.