



# 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 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

**Requestor Name**

EDWIN E. JOHNSTONE, MD

**Respondent Name**

COMMERCE & INDUSTRY INSURANCE

**MFDR Tracking Number**

M4-12-0008-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

AUGUST 31, 2011

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "I have tried on several occasions to collect on the enclosed psychological evaluation to no avail. Enclosed is the original request from the NCM, the report by Edwin Johnstone MD, the invoice and copies of the OK received fax resolutions and the dwc 60. I find it incredulous that insurance can 'not pay' at will. There is no EOB as were just ignored. Obviously that is their mode of operandi as I have tow other AIG, Chartis claims that have also been ignored."

**Amount in Dispute:** \$750.00

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** The respondent did not submit a response to this request for medical fee dispute resolution.

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 23, 2011	Psychiatric Evaluation	\$750.00	\$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 §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §133.10 requires health care providers to bill on CMS-1500.
- 28 Texas Administrative Code §133.20 requires health care providers to use correct billing codes on medical bills.
- Neither party to this dispute submitted copies of the explanation of benefits to support denial/reduction of payment for the disputed services.
- The Division placed a copy of the Medical Fee Dispute Resolution request in the insurance carrier's Austin representative box, which was acknowledged received on September 2, 2011. Per 28 Texas Administrative Code §133.307(d)(1), "The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile within 14 calendar days after the date the respondent received the copy of the requestor's dispute. If the division does not receive the response information within 14 calendar days of the

dispute notification, then the division may base its decision on the available information." The insurance carrier did not submit any response for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.

### **Issues**

1. Was the dispute filed in the form and manner required by 28 Texas Administrative Code §133.307?
2. Does the documentation support provider billed in accordance with 28 Texas Administrative Code §133.10(a)(1) and §133.20(c)?
3. Is the requestor entitled to reimbursement?

### **Findings**

1. Former 28 Texas Administrative Code §133.307(c)(2)(A), effective May 25, 2008, 33 *Texas Register* 3954, requires that the request shall include "a copy of all medical bill(s) . . . as originally submitted to the carrier and a copy of all medical bill(s) submitted to the carrier for reconsideration." Review of the submitted documentation finds that the requestor has not provided a copy of the medical bill(s) as originally submitted to the carrier and/or as submitted for reconsideration. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(A).

Former 28 Texas Administrative Code §133.307(c)(2)(B), effective May 25, 2008, 33 *Texas Register* 3954, requires that the request shall include "a copy of each explanation of benefits (EOB) . . . relevant to the fee dispute or, if no EOB was received, convincing documentation providing evidence of carrier receipt of the request for an EOB." Review of the submitted documentation finds that the request does not include copies of any EOBs for the disputed services. Nor has the requestor provided evidence of carrier receipt of the request for an EOB. The Division concludes that the requestor has not met the requirements of §133.307(c)(2)(B).

Former 28 Texas Administrative Code §133.307(c)(2)(C), effective May 25, 2008, 33 *Texas Register* 3954, requires that the request shall include "the form DWC-60 table listing the specific disputed health care and charges in the form and manner prescribed by the Division." Review of the submitted documentation finds that the requestor has not completed the form DWC-60 table listing the specific disputed health care and charges in the form and manner prescribed by the Division, specifically the requestor did not list the CPT code. The requestor has therefore failed to complete the required sections of the request in the form and manner prescribed under §133.307(c)(2)(C).

The Division concludes that the dispute was not filed in the form and manner required by Former 28 Texas Administrative Code §133.307.

2. 28 Texas Administrative Code §133.10(a)(1) states "Health care providers shall submit medical bills for payment: (1) on standard forms used by the Centers for Medicare and Medicaid Services (CMS)"

The requestor billed for the disputed services with an invoice; therefore, the requestor did not bill for the service in accordance with 28 Texas Administrative Code §133.10(a)(1).

28 Texas Administrative Code §133.20(c) requires "A health care provider shall include correct billing codes from the applicable Division fee guidelines in effect on the date(s) of service when submitting medical bills."

The requestor billed for the disputed services on an invoice and it does not list the correct billing codes from the applicable Division fee guideline.

The Division concludes that the requestor did not bill for the disputed services in the form and manner required by 28 Texas Administrative Code §133.10 and 28 Texas Administrative Code §133.20.

3. Because the requestor did not bill for the disputed services in accordance with the Division rules and fee guidelines, reimbursement is not recommended.

### **Conclusion**

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution. After thorough review and consideration of the evidence presented by the parties to this dispute, it is determined that the submitted documentation does not support the reimbursement amount sought by the requestor. The requestor has failed to establish that additional reimbursement is due. As a result, the amount ordered is \$0.00.

**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 disputed services.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

11/06/2014  
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.**