



# 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**

HOUSTON ORTHOPEDIC & SPINE HOSPITAL

**Respondent Name**

TEXAS MUTUAL INSURANCE COMPANY

**MFDR Date Received**

JUNE 15, 2012

**Carrier's Austin Representative**

Box Number 54

**MFDR Tracking Number**

M4-12-3124-02

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The expected payment per APC rate \$4,100.68. We have a contract with First Health. 90% of the APC Rate will be paid. Which means Texas Mutual did not allow the correct APC Rate. APC Rate \$4,100.68 @ 90% should have paid \$3,690.61."

**Amount in Dispute:** \$69.03

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Texas Mutual claim is in the Texas Star Network and the requestors in the same Network... DWC Rule 133.307 at (a)(1) states the applicability of a request for medical fee dispute resolution through DWC MDR pertains to non-network or certain authorized out-of-network health care not subject to a contract. Neither of these applies in the instant case. For this reason the requestor does not have standing to bring this dispute forward to DWC MDR. The proper venue for the requestor is through the complaint process with Coventry Workers' Complainant Services. Information on that process was afforded to the requestor upon entry as a Network provider. Therefore no additional payment is due."

**Response Submitted by:** Texas Mutual Insurance Company

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 10, 2012	Hospital Outpatient Services	\$69.03	\$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

1. 28 Texas Administrative Code §133.305, sets out the procedures for resolving medical disputes.
2. 28 Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.
3. 28 Texas Administrative Code §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network.

#### Issues

1. Did the in-network healthcare provider render services to an in-network injured employee?
2. Is the requestor eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.305?
3. What may be the appropriate administrative remedy to address fee matters related to health care certified networks?

**Findings**

1. The requestor seeks a decision from the division’s medical fee dispute resolution (MFDR) section. The authority for MFDR to resolve matters involving employees enrolled in a certified health care network is conditional. 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 that has been determined to be medically necessary and appropriate for treatment of that injured employee's compensable injury. The dispute is resolved by the division pursuant to division rules, including §133.307 of this title (relating to MDR of Fee Disputes.” The Division defines non-network health care in paragraph (a) (6) of the same rule as “Health care not delivered or arranged by a certified workers' compensation health care network as defined in Insurance Code Chapter 1305 and related rules ...” That is, the Divisions medical fee dispute resolution section, may address disputes involving health care provided to an injured employee enrolled in an HCN, only if the out-of-network health care provider was authorized by the certified network to do so.
2. The insurance carrier’s response indicates that both the healthcare provider and the injured employee are enrolled in the certified network. The Division notified the requestor that the disputed services were provided to an injured employee enrolled in a certified network. The requestor was provided with information/documentation outlining the dispute path for in-network healthcare providers and out-of-network healthcare providers. Review of the documentation in this dispute supports that the health care provider treated an injured employee enrolled in a certified network. The requestor did not submit a response and/or submitted insufficient documentation to the Division to support that the disputed services are eligible for review by Medical Fee Dispute Resolution section. The division concludes that the services in dispute are not eligible for review pursuant to 28 Texas Administrative Code §133.305.
3. The TDI rules at 28 Texas Administrative Code §§10.120 through 10.122 address the submission of a complaint by a health care provider to the Health Care Network. The Division finds that the disputed services rendered by an in-network healthcare facility to an in-network injured employee may be filed to the Texas Department of Insurance’s (TDI) Complaint Resolution Process, if the health care provider or facility is dissatisfied with the outcome of the network complaint process. The complaint process outlined in Texas Insurance Code Subchapter I, §1305.401 - §1305.405 may be the appropriate administrative remedy to address fee matters related to health care certified networks.

**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. This decision is based upon a review of all the evidence presented by the parties in this dispute. Even though not all the evidence was discussed, it was considered. The Division finds that this dispute is not under the jurisdiction of the Division of Workers’ Compensation and is therefore not eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.305.

**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	Date
		<u>April 23, 2015</u>

**YOUR RIGHT TO APPEAL**

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request 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 §141.1(d).