



# TEXAS DEPARTMENT OF INSURANCE

**Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)**  
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## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### GENERAL INFORMATION

**Requestor Name**

PATIENT CARE INJURY CLINIC

**MFDR Tracking Number**

M4-18-3833-01

**MFDR Date Received**

June 6, 2018

**Respondent Name**

LIBERTY MUTUAL FIRE INSURANCE

**Carrier's Austin Representative**

Box Number 01

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The MFDR is submitted out of the time frame, however; the division's commissioner issued bulletin #B-0020-17. The proclamation states that system participants who reside within the counties listed have the right for the Texas worker's compensation deadlines to be tolled through the duration of the proclamation. The proclamation further states that a waiver is applied to non-emergency healthcare provided out of network. We feel that our facility should be paid according to the workers compensation fee schedule guidelines."

**Amount in Dispute:** \$1,957.85

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Bill was reviewed and denied correctly as the provider does not have a contract with Liberty HCN and the provider did not received [sic] out of network approval by the Claims Case Manager."

**Response Submitted by:** Liberty Mutual Insurance

### SUMMARY DISPUTED SERVICES

| Date(s) of Service                  | Disputed Service(s)                    | Amount In Dispute | Amount Ordered |
|-------------------------------------|--|-------------------|----------------|
| May 3, 2017 through<br>May 11, 2017 | 97110-GP, 97140-GP, 97112-GP and G0283 | \$1,957.85        | \$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 Insurance Code Chapter 1305 applicable to Health Care Certified Networks.
- The services in dispute were denied by the respondent with reason code(s)
  - X397 – Provider is not within the Liberty Health Care Network (HCN)

**Issue**

- Does Bulletin # B-0020-17 apply to the disputed services?
- Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

## **Findings**

1. The requestor filed this medical fee dispute to the Division asking for resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation to resolve matters involving employees enrolled in a certified health care network is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305 and limited application of Texas Labor Code statutes and rules, including 28 TAC §133.307.

The requestor states in pertinent part, "The proclamation states that system participants who reside within the counties listed have the right for the Texas worker's compensation deadlines to be tolled through the duration of the proclamation. The proclamation further states that a waiver is applied to non-emergency healthcare provided out of network.

Texas Insurance Code §1305.106 provides that "An insurance carrier that establishes or contracts with a network is liable for the following **out-of-network** health care that is provided to an injured employee... (3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section [1305.103](#)."

TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation."

The disputed services are Mary 3, 2017, May 8, 2017, May 10, 2017 and May 11, 2017. The Commissioner Bulletin #B-0020-17 is dated August 29, 2017 well after the dates of service in dispute. As a result, the proclamation referenced by the requestor does not apply to the disputed services. The requestor was therefore required to obtain an out-of-network referral from the network. Review of the submitted documentation does not contain a copy of an out-of-network referral contained in the dispute.

The requestor included a copy of a preauthorization letter from the insurance carrier pre-authorizing the disputed physical therapy services. The Division concludes that although the requestor obtain preauthorization for the treatment (physical therapy services), the requestor failed to obtain an out-of-network referral pursuant to TIC §1305.006(3). As a result, the disputed services are not eligible for medical fee dispute resolution.

The Division finds that adjudicating the disputed service would involve enforcing a law, regulation, or other provision for the disputed service(s), provided to an in-network injured employee. The Division finds the disputed services are not under the jurisdiction of the Division of Workers' Compensation and therefore, are not eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307. The requestor submitted insufficient documentation to support that the disputed services, rendered to an in-network injured employee were provided pursuant to TIC §1305.106.

2. The Division finds that the disputed services were rendered to an in-network injured employee. 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 may be filed to the 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 and may be the appropriate administrative remedy to address 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. Even though all the evidence was not discussed, it was considered. The requestor failed to prove in this case that that the requirements of Texas Insurance Code Section 1305.006(3) were met. Consequently, the services in dispute are not eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307. 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 §133.307.

**DECISION**

Based upon the documentation submitted by the parties, the Division has determined that this dispute is not eligible for resolution pursuant to 28 Texas Administrative Code §133.307.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Manager

\_\_\_\_\_  
July 26, 2018  
Date

**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).