



**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**  
**GENERAL INFORMATION**

**Requestor Name**  
 PATIENT CARE INJURY CLINIC

**MFDR Tracking Number**  
 M4-18-3836-01

**MFDR Date Received**  
 June 6, 2018

**Respondent Name**  
 TEXAS MUTUAL INSURANCE COMPANY

**Carrier's Austin Representative**  
 Box Number 54

**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 workers' 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:** \$927.46

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Texas Mutual has no record the requester obtained network preauthorization prior to performing the physical therapy. (Attachment) The requester asserts it is irrelevant because of Commissioner's Bulletin #B-0020-17. However, the effective date of the Bulletin is 8/29/17... No payment due."

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

**SUMMARY DISPUTED SERVICES**

Date(s) of Service	Disputed Service(s)	Amount in Dispute	Amount Ordered
August 4, 2017 through August 11, 2017	97140-GP, G0283, 97110-GP and 97112-GP	\$927.46	\$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 Administrative Code §133.307, sets out the procedures for resolving medical fee disputes.
3. 28 Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.
4. The insurance carrier denied the disputed services with denial reduction code:
  - 197— Precertification/authorization/notification absent
  - 785— Service rendered is integral to service requiring preauthorization. Pre-authorization not sought approval not obtained for that service
  - 786 — Denied for lack of preauthorization or preauthorization denial in accordance with the network contract

## Issue

1. Did the requestor render services to an injured employee enrolled in a certified network?
2. 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.

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](#)."

Texas Insurance Code §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 requestor seeks reimbursement for dates of service August 4, 2017, August 7, 2017, August 9, 2017 and August 11, 2017. The requestor provided a copy of Commissioner Bulletin #B-0020-17, dated August 29, 2017 in support of the disputed services. The requestor's position summary states in pertinent part, "The proclamation states that system participants who reside within the counties listed have the right for the Texas Workers' 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." The division finds that the proclamation referenced by the requestor does not apply to the disputed services, as the disaster proclamation is dated after the disputed dates of service were rendered. The requestor was therefore required to obtain preauthorization for the out-of-network treatment prior to rendering the services in dispute. Review of the submitted documentation does not contain a copy a preauthorization letter to support that the disputed services were preauthorized. 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.

Per 28 Texas Administrative Code §133.307 (a) (3) "...In resolving **non-network** disputes which are over the amount of payment due for health care determined to be medically necessary and appropriate for treatment of a compensable injury, the role of the Division of Workers' Compensation (Division) is to adjudicate the payment, given the relevant statutory provisions and Division rules."

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 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**

		August 2, 2018
Signature	Medical Fee Dispute Resolution Officer	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).