



# 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**

PROFFESIONAL EMERGENCY SERVICE

**MFDR Tracking Number**

M4-18-4008-01

**MFDR Date Received**

June 18, 2018

**Respondent Name**

NEW HAMPSHIRE INSURANCE COMPANY

**Carrier's Austin Representative**

Box Number 19

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "PESA received authorization under §134.600 as demonstrated by the enclosure... The carrier continues to deny the charges although we have demonstrated that pre-authorization was obtained."

**Amount in Dispute:** \$102.40

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The claimant is in the First Health Coventry Health Care network. Dr. Payne is not in that network. Moreover, Dr. Bosita is not the claimant's treating doctor within that network. In order for a provider outside the network to be entitled to reimbursement, the treating doctor must refer the claimant to that doctor and the network must approve that referral... Dr. Payne is attempting to receive reimbursement and is seeking assistance from the Medical Review Division to do so, yet he is not entitled to reimbursement because he is not in the network nor was he approved an out of network provider. The Medical Review Division's determination of medical fee disputes is limited to non-network medical fee disputes... Division should dismiss the provider's request for medical Fee Dispute Resolution."

**Response Submitted by:** Flahive, Ogden & Latson

### **SUMMARY DISPUTED SERVICES**

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Ordered
March 2, 2018	97545-WH	\$102.40	\$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 §133.307, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Insurance Code Chapter 1305 applicable to Health Care Certified Networks.
3. The services in dispute were denied by the respondent with reason code(s)
  - 197 – Payment denied/reduced for absence of precertification/authorization
  - 5264 – Payment is denied – service not authorized

## Issue

1. Did the requestor obtain approval from the certified network to treat the injured employee?
2. Is this dispute eligible for medical fee dispute resolution pursuant to 28 Texas Administrative Code §133.307?

## Findings

The requestor filed this medical fee dispute with the Division requesting resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation is to apply the Texas Labor Code (TLC) statutes and rules, including 28 TAC §133.307 and is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305. In particular, 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 requestor therefore has the burden to prove that the condition(s) outlined in Texas Insurance Code §1305.006 were met in order to be eligible for dispute resolution. The following are the Division's findings.

1. The requestor seeks reimbursement for CPT Code 97545-WH rendered on March 2, 2018. The services in dispute were denied with reduction code(s) "197 – Payment denied/reduced for absence of precertification/authorization" and "5264 – Payment is denied – service not authorized."

Texas Insurance Code Section 1305.006 (3) requires, in pertinent part, "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." The requestor, therefore has the burden to prove that it obtained the appropriate approval from the certified healthcare network for the out-of-network care it provided.

Texas Insurance Code Section 1305.153 (e) requires, in pertinent part, "(c) 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."

Texas Insurance Code Section 1305.103 (e) requires, in pertinent part, "(e) A treating doctor shall provide health care to the employee for the employee's compensable injury and shall make referrals to other network providers, or request referrals to out-of-network providers if medically necessary services are not available within the network. Referrals to out-of-network providers must be approved by the network. The network shall approve a referral to an out-of-network provider not later than the seventh day after the date on which the referral is requested, or sooner if circumstances and the condition of the employee require expedited approval. If the network denies the referral request, the employee may appeal the decision through the network's complaint process under Subchapter I." The requestor therefore, has the burden to prove that the condition(s) outline in Texas Insurance Code §1305.103 (e) were met.

The requestor, in its request for MFDR states "The carrier continues to deny the charges although we have demonstrated that pre-authorization was obtained." The requestor submitted a copy of a preauthorization letter to support that preauthorization was obtained for the disputed services, however submitted insufficient documentation to support that a referral that the it received an out-of-network referral from the injured employee's treating doctor that has been approved by the network pursuant to Section 1305.103. The Division concludes that the requestor did not receive a referral from the Certified Network; as a result, has failed to meet the requirements of Texas Insurance Code Section 1305.103 (e), 1305.153 (e) and 1305.006 (3).

2. The requestor failed to prove in this case that that the requirements of Texas Insurance Code Section 1305.153 (e) were met. Consequently, the services in dispute are not eligible for medical fee dispute resolution pursuant to 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

\_\_\_\_\_  
Date

July 26, 2018

**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).