



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Milton E. Kirkwood, D.O.

Respondent Name

AIU Insurance Co.

MFDR Tracking Number

M4-25-0671-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

November 19, 2024

Summary of Findings

| Dates of Service | Disputed Services | Amount in Dispute | Amount Due |
|------------------|---|-------------------|---------------|
| March 19, 2024 | Examination to Determine the Extent of Injury 99456-RE | \$500.00 | \$0.00 |
| | Examination to Determine Disability 99456-RE | \$250.00 | \$0.00 |
| Total | | \$750.00 | \$0.00 |

Requestor's Position

"Review of the submitted documentation finds that the doctor performed an evaluation of MMI/IR, Extent of Injury, and disability ... The EOB reason code for denial is *L02-HCP can only address EOI and Disability if the previous DD exam addressed these issues. The prior DD did not address. Dr. Petrasek addressed disability & RTW on 6-3-23. TDI sent the notice to address EOI on 3/27. Appointment was 04/12/24. However, as they stated in the EOB, Dr. Petrasek did address disability on 06/03/2023. As for the Extent of Injury that was requested by the claimant's attorney ... She submitted the request to TDI on 02/22/2024 at the same time she also requested a treating doctor referral to address MMI/IR, Extent of Injury, and Disability.*"

Amount in Dispute: \$750.00

Respondent's Position

"The Requestor's original bill was received by the Carrier on 3/28/2024 ... *Please note that line 1 was paid, but done so incorrectly as the Injured Worker is in the Texas Corcare HCN ...*

"The Requestor submitted a request for reconsideration that was received by the Carrier on 6/7/2024 ... During the review of the reconsideration request, it was noted that the Injured Worker/Employer participates in the Texas CorCare HCN ... To date, the Requestor has not submitted an Out of Network request. The Requestor notes in the MMI/IR narrative that the **treating doctor** referred the Injured Worker for MMI/IR exam. The treating doctor, Parvaneh Cheemeh, MD and their group (Nova Medical Group) are in the Texas CorCare HCN. As such, the TD should've referred the IW to another physician that also participates in the Texas CorCare HCN.

"Regardless of Dr. Petrasek determining Disability during his 6/3/2023 DDE, the Requestor would still not be paid due to the HCN status of the claim and Dr. Kirkwood's non-participation status in the HCN.

"CorVel maintains the Requestor, RMJ Evaluations/Milton Kirkwood DO, is not entitled to reimbursement for date of service 03/19/2024 in the amount of \$750.00 based on failure to obtain out-of-network approval from the Texas CorCare Network prior to services being rendered in accordance with TIC Sec. 1305.103(e)."

Response Submitted by: CorVel Healthcare Corporation

Findings and Decision

Authority

This medical fee dispute is decided according to [Texas Labor Code \(TLC\) §413.031](#) and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Statutes and Rules

1. [28 Texas Administrative Code \(TAC\) §133.307](#) sets out the procedures for resolving medical fee disputes.
2. [Texas Insurance Code \(TIC\) Chapter 1305](#) governs workers' compensation health care networks.

Denial Reasons

The insurance carrier denied payment for the disputed services with the following claim adjustment codes:

- 16 – Svc lacks info needed or has billing error(s)
- 234 – This procedure is not paid separately.
- 4 – Procedure code inconsistent with modifier used

- L02 and L03 – Per rule 134.240, only a Designated Doctor can bill with modifiers W5-W9. This is not a DD exam.
- 242 – Services not provided by network/primary care prov.
- L03 – HCP can only address EOI and Disability if the PREVIOUS DD exam addressed these issues. The prior DD did not address. Dr. Petrsek only addressed MMI.
- NNP – Non-Network Provider
- L03 – HCP can only address EOI and Disability if the PREVIOUS DD exam addressed these issues. Dr. Petrsek was asked to determine RTW and Disability; however, Dr. Kirkwood is not in the HCN. Prior payment of MMI incorrect.
- Comments: “Per rule 126.17, a TD or referral doctor can only address issues other than MMI/IR if the Designated Doctor gave an opinion on the issue(s). DD did not address EOI or Disability. Additionally, there is no PLN11 on file regarding EOI.”
- Comments: “Per the Labor Code: 401.011(19) ‘Health care’ includes all reasonable and necessary medical aid, MEDICAL EXAMS, medical treatments, medical diagnoses, MEDICAL EVALUATIONS, and medical svcs. This is a medical evaluation. Claim is covered by TX CorCare HCN Per Sec 1305.006(3) a carrier is liable for out-of-network healthcare ONLY if the non-network HCP was referred from the IE’s treating doctor AND that referral has been APPROVED by the network pursuant to Sec 1305.103. No OON approval submitted.”

Issues

1. Are the disputed services out-of-network health care?
2. Under what conditions is the insurance carrier liable for out-of-network health care?
3. Is the insurance carrier liable for the disputed services?

Findings

1. The requestor, Milton E. Kirkwood, D.O., submitted a medical fee dispute to DWC for resolution according to 28 TAC §133.307. The dispute concerns an examination to determine the extent of the compensable injury and disability performed by the requestor on March 19, 2024. Per the submitted documentation and from information known to the division, the injured employee’s claim is within the Texas CoreCare Network. No evidence was provided to support that the requestor was within the Texas CoreCare Network. As a result, the requestor provided out-of-network health care to the injured employee.
2. The requestor submitted the dispute requesting reimbursement for the disputed services as governed by the Texas Labor Code statutes and Texas Administrative Code rules, including 28 TAC §133.307. The requirements mentioned in the relevant sections of TIC, Chapter 1305, are applicable to the DWC’s ability to apply the TLC statutes and DWC rules for out-of-network health care. TIC §1305.153(c) states that “Out-of-network providers who provide care as described by §1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation.”

TIC §1305.006 which addresses insurance carrier liability for out-of-network health care, states, "An insurance carrier that establishes or contracts with a network is liable for the following out-of-network healthcare that is provided to an injured employee:

- (1) Emergency care;
- (2) Health care provided to an injured employee who does not live within the service area of any network established by the insurance carrier or with which the insurance carrier has a contract; and
- (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 §1305.103."

3. The requestor has the burden to prove that the conditions outlined in TIC §1305.006 were met for the insurance carrier to be liable for the disputed services.

DWC finds that the requestor failed to provide any documentation to support that any of the conditions of TIC §1305.006 were met in this dispute. As a result, DWC finds that the insurance carrier is not liable for the out-of-network health care in dispute.

Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requestor has not established that additional reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

April 3, 2025

Date

Your Right to Appeal

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the

instructions on the form. You can find the form at www.tdi.texas.gov/forms/form20numeric.html. DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, please call CompConnection at 1-800-252-7031, option three or email CompConnection@tdi.texas.gov.

The party seeking review of the MFDR decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** with any other required information listed in [28 TAC §141.1 \(d\)](#).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, opción tres o correo electrónico CompConnection@tdi.texas.gov.