



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requester Name**

Nueva Vida Behavioral Health

**Respondent Name**

Starr Indemnity & Liability Co

**MFDR Tracking Number**

M4-26-0764-01

**Insurance Carrier's Austin Representative**

BOX 19 Flahive Ogden & Latson

**DWC Date Received**

November 18, 2025

### Summary of Findings

Date(s) of Service	Disputed Services	Amount in Dispute	Amount Due
April 7, 2025	90791	\$329.00	\$0.00
April 7, 2025	96130	\$250.00	\$0.00
April 7, 2025	96131	\$350.00	\$0.00
April 7, 2025	96138	\$100.00	\$0.00
April 7, 2025	96139	\$100.00	\$0.00
<b>Total</b>		<b>\$1,129.00</b>	<b>\$0.00</b>

### Requester's Position

"[Injured employee] was referred by his treating physician, Dr. Rebecca Schwartzberg, PHD, for a psychological screening for his work-related injury. The screening requires both psychological evaluation and mental health testing. Nueva Vida obtained preauthorization for 'Psychological

diagnostic interview and Psychological testing' on March 21, 2025 with authorization #[redacted] (see attached preauthorization letter.)"

**Amount In Dispute:** \$1,129.00

### **Respondent's Position**

"The provider is not the treating doctor. Moreover, according to the provider's CMS 1500 and box 17, he was not referred into the case by the treating doctor. Yet, the treating doctor is responsible for the claimant's medical treatment. Except in an emergency, all healthcare must be approved or recommended by the employee's treating doctor. See Section 408.021(c) of the Texas Labor Code. In this case, the provider has submitted no proof that she was referred into this case by the treating doctor, Accordingly, she is not entitled to any reimbursement."

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

### **Findings and Decision**

#### Authority

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

#### Statutes and Rules

1. 28 Texas Administrative Code (TAC) Section [133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 TAC Section 133.305](#) established procedures for resolving medical disputes
3. [28 TAC Section 126.9](#) out the procedures for Choice of Treating Doctor and Liability for Payment.
4. [28 TAC Section 180.22](#) sets out the Health Care Provider Roles and Responsibilities.
5. [Section 408.021](#) entitlement to medical benefits.
6. [28 TAC Section 141.1](#) provides the framework for dispute resolution and benefit review conferences.

#### Adjustment Reasons

1. 1014 –The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
2. W3 – Bill is a reconsideration or appeal.
3. 2005 – No additional reimbursement allowed after review of appeal/reconsideration.
4. 193 – Original payment decision is being maintained. Upon review, it was determined that this time claim was processed properly.

5. 5264 – Payment is denied-service not authorized.
6. 5477 – Charges denied as claim is still under investigation.
7. 5628 – The date of service is not related to the above referenced claim. Please submit the bill to the patient or patients health care plan for payment.
8. 109 – Claim not covered by this payer/contractor. You must send the claim to the correct payer/contractor.
9. 197 – Payment denied/reduced for absence of precertification/authorization.
10. P8 – Claim is under investigation

### Issues

1. What is DWC considering in this medical fee dispute?
2. Is the insurance carrier's denial of payment justified?
3. Is the requester entitled to reimbursement?

### Findings

1. The requester seeks reimbursement in the amount of \$1,129.00 for psychiatric evaluation and psychological testing services rendered on April 7, 2025.
2. The insurance carrier denied the disputed services as medical provider not authorized.

Under Section 408.021 (c), "Except in an emergency, all health care must be approved or recommended by the employee's treating doctor".

Under 28 TAC Section 180.22(c)(1), the treating physician is responsible for managing and coordinating all healthcare related to a compensable injury and must approve or recommend any non-emergency care.

According to the submitted medical documentation, Rebecca Schwartzberg, PhD., obtained preauthorization for the services in dispute. A review of the medical bill, box17, which should contain the name of the referring provider or other source was left blank.

A review of the DWC records indicates that Dr. Rebecca Schwartzberg, PhD, is not listed as the claimant's treating physician. The provider who rendered the services in dispute is Andrea Zuflacht-Cukjati, M.S., LPC-S. No documentation has been submitted to demonstrate that the injured employee's treating physician referred the claimant to Andrea Zuflacht-Cukjati, M.S., LPC-S for the services in question.

Pursuant to 28 TAC Section 180.22(d) and (e), only physicians acting under referral or consultation from the treating physician are authorized to provide care within the Texas workers' compensation system. There is no evidence that Dr. Schwartzberg received a referral from the treating physician, nor is there documentation showing she had independent authority to prescribe or administer treatment. Furthermore, there is no indication that the services at issue were provided in an emergency situation.

3. The Division of Workers' Compensation (DWC) determined that Dr. Schwartzberg was not designated as the treating physician at the time the referral for the disputed services at Nueva Vida Behavioral Health Associates, Inc. was made. There is no documentation verifying a referral from the treating physician or indicating that a formal request to change physicians had been submitted and approved by the DWC prior to the date of service. Consequently, the insurance carrier is not responsible for payment of the disputed charges, and responsibility for the claimant's care remains with the treating physician of record.

Additionally, 28 TAC Section 126.9(d) requires a formal request to change the treating physician, except in situations where the original provider is deceased, retired, unavailable, or otherwise removed from the approved list. Under 28 TAC Section 126.9(f), the DWC must approve such requests within 10 days, and insurers are only obligated to pay for services rendered after DWC approval. Therefore, the carrier's denial of reimbursement is consistent with the applicable rules and regulations. Accordingly, the requester is not entitled to reimbursement for the services in dispute.

### Conclusion

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

DWC finds the requester has not established that reimbursement is due.

### **Order**

Under Texas Labor Code Sections [413.031](#) and [413.019](#), DWC has determined the requester is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

_____	_____	February 11, 2026
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 under 28 TAC Section [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](http://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 800-252-7031, option three or email [CompConnection@tdi.texas.gov](mailto: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 this *Medical Fee Dispute Resolution Findings and Decision*** with any other required information listed in 28 TAC Section [141.1\(d\)](#).

Si prefiere hablar con una persona en español acerca de esta correspondencia, favor de llamar a 800-252-7031, opción tres o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).