



# Texas Department of Insurance

## Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645  
512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

**Requestor Name**

Buckner Back & Neck

**Respondent Name**

Old Republic Insurance Co

**MFDR Tracking Number**

M5-09-0011-01

**Carrier's Austin Representative**

Box Number 44

**MFDR Date Received**

October 15, 2007

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "Pre-auth obtained."

**Amount in Dispute:** \$167.20

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "All reductions of the disputed charges were made appropriately. To the extent that the provider claims the services were preauthorized the carrier contends that the services provided were not consistent with the preauthorization."

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

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 2, and July 6, 2007	97112	\$71.48	\$0.00
July 2, and July 6, 2007	97116 and 97012	\$95.72	\$95.72
TOTAL		\$167.20	\$95.72

#### 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 Administrative Code §134.203 sets out the fee guidelines for professional medical services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - W9 – Unnecessary medical treatment based on peer review.

## Issues

1. Did the requestor obtain preauthorization for the disputed charges?
2. Did the requestor bill in conflict with the NCCI edits?
3. Did the requestor submit documentation to support the billing of the -59 modifier?
4. Is the requestor entitled to reimbursement?

## Findings

1. Former 28 Texas Administrative Code §134.600 “(p)Non-emergency health care requiring preauthorization includes: (5)physical and occupational therapy services, which includes those services listed in the Healthcare Common Procedure Coding System (HCPCS) at the following levels: (A)Level I code range for Physical Medicine and Rehabilitation, but limited to: (i)Modalities, both supervised and constant attendance; (ii)Therapeutic procedures, excluding work hardening and work conditioning; (iii)Orthotics/Prosthetics Management; (iv)Other procedures, limited to the unlisted physical medicine and rehabilitation procedure code.”

Review of the submitted documentation supports that the requestor obtained preauthorization from Corvel on June 7, 2007 for physical therapy x 12 session to be completed by July 6, 2007. The disputed charges were rendered July 2, 2007 and July 6, 2007.

Former 28 Texas Administrative Code §134.600 states in pertinent part, “(c)The carrier is liable for all reasonable and necessary medical costs relating to the health care: (1)listed in subsection (p) or (q) of this section only when the following situations occur: (B)preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care. . .”

As a result, the disputed charges were preauthorized by the insurance carrier and are reviewed pursuant to 28 Texas Administrative Code §134.202.

2. Per 28 Texas Administrative Code §134.202 “(b) For coding, billing, reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section.”

The division completed NCCI edits to identify potential edit conflicts that would affect reimbursement. The following was identified:

Per CCI Guidelines, procedure code 97112 has a CCI conflict with procedure code 98941. Review documentation to determine if a modifier is appropriate.” The requestor appended modifier -59 to CPT code 97112. The CPT Manual defines modifier -59 as follows:

Modifier -59: “Distinct Procedural Service: Under certain circumstances, the physician may need to indicate that a procedure or service was distinct or independent from other services performed on the same day. Modifier 59 is used to identify procedures/services that are not normally reported together, but are appropriate under the circumstances. This may represent a different session or patient encounter, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries)not ordinarily encountered or performed on the same day by the same physician. However, when another already established modifier is appropriate, it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used.”

The requestor submitted insufficient documentation to support the application of modifier -59 to CPT code 97112. As a result, reimbursement cannot be recommended for CPT code 97112 rendered July 2, 2007 and July 6, 2007.

The remaining disputed CPT codes 97116 and 97012 rendered July 2, 2007 and July 6, 2007 are reviewed pursuant to 28 Texas Administrative Code §134.202.

3. Per 28 Texas Administrative Code §134.202 “(c) To determine the maximum allowable reimbursements (MARs) for professional services system participants shall apply the Medicare payment policies with the following minimal modifications: (1) for service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Surgery, Radiology, and Pathology the conversion factor to be used for determining reimbursement in the Texas workers' compensation system is the effective conversion factor adopted by CMS multiplied by 125%. For Anesthesiology services, the same conversion factor shall be used.”  
Per 28 Texas Administrative Code §134.202 “(d) In all cases, reimbursement shall be the least of the: (1) MAR amount as established by this rule; (2) health care provider's usual and customary charge; or, (3) health care provider's workers' compensation negotiated and/or contracted amount that applies to the billed service(s).”

Review of the submitted documentation finds that the requestor is entitled to the following reimbursement:  
Date of service, July 2, 2007. The requestor seeks reimbursement in the amount of \$30.30 for CPT code 97116. The MAR reimbursement is \$30.30, therefore the requestor is entitled to reimbursement in the amount of \$30.30 for CPT code 97116.

Date of service, July 2, 2007. The requestor seeks reimbursement in the amount of \$17.56 for CPT code 97012. The MAR reimbursement is \$17.56, therefore the requestor is entitled to reimbursement in the amount of \$17.56 for CPT code 97012.

Date of service, July 6, 2007. The requestor seeks reimbursement in the amount of \$30.30 for CPT code 97116. The MAR reimbursement is \$30.30, therefore the requestor is entitled to reimbursement in the amount of \$30.30 for CPT code 97116.

Date of service, July 6, 2007. The requestor seeks reimbursement in the amount of \$17.56 for CPT code 97012. The MAR reimbursement is \$17.56, therefore the requestor is entitled to reimbursement in the amount of \$17.56 for CPT code 97012.

4. The division finds that the requestor is entitled to a total reimbursement in the amount of \$95.72.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$95.72.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$95.72 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
May 9, 2014  
Date

**YOUR RIGHT TO APPEAL**

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing 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 §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**