



# 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**

MICHAEL CHRISTOPHER MAIER

**Respondent Name**

WAL MART ASSOCIATES INC

**MFDR Tracking Number**

M4-10-3753-01

**Carrier's Austin Representative**

Box Number 53

**MFDR Date Received**

April 20, 2010

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "Procedure code 29822 was done in the Glenohumeral Joint and 29824 and 29826 were done in the subacromial Joint. Which were performed in separate joints of the shoulder also we had added a 59 modifier to indicate that information. Therefore, we find procedure code 29822 subject to payment."

**Amount in Dispute:** \$950.11

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "As all procedures in this operative session performed on the right shoulder, with exact descriptors, on which NCCI Edits are based, modifier 59 exception not warranted. 5/12/2009 charges have been correctly reimbursed; no additional payment due to provider."

**Response Submitted by:** Claims Management, Inc., PO Box 1288 Bentonville, Arkansas, 72712-1288

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 12, 2009	Procedure Code 29822-59	\$950.11	\$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**

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.203 sets out the fee guidelines for professional medical services.
- The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 97 – PAYMENT ADJUSTED BECAUSE THE BENEFIT FOR THIS SERVICE IS INCLUDED IN THE PAYMENT/ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE THAT HAS ALREADY BEEN ADJUDICATED.
  - 899 – IN ACCORDANCE WITH CLINICAL BASED CODING EDITS (NATIONAL CORRECT CODING INITIATIVE/OUTPATIENT CODE EDITOR) COMPONENT CODES OF COMPREHENSIVE SURGERY: MUSCULOSKELETAL SYSTEM PROCEDURE (20000-29999) HAS BEEN DISALLOWED.
  - 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.

## **Issues**

1. Did the respondent support the insurance carrier's reasons for reduction or denial of services?

## **Findings**

1. This dispute relates to professional medical services with reimbursement subject to the provisions of 28 Texas Administrative Code §134.203(b)(1), which requires that, for coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply "Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

The disputed service is procedure code 29822-59, which denotes "Arthroscopy, shoulder, surgical; debridement, limited." Review of the submitted medical records finds that the procedure involved "debridement of the small posterior-superior degenerative labral tear."

The insurance carrier denied the disputed service with reason codes 97 – "PAYMENT ADJUSTED BECAUSE THE BENEFIT FOR THIS SERVICE IS INCLUDED IN THE PAYMENT/ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE THAT HAS ALREADY BEEN ADJUDICATED."; and 899 – "IN ACCORDANCE WITH CLINICAL BASED CODING EDITS (NATIONAL CORRECT CODING INITIATIVE/OUTPATIENT CODE EDITOR) COMPONENT CODES OF COMPREHENSIVE SURGERY: MUSCULOSKELETAL SYSTEM PROCEDURE (20000-29999) HAS BEEN DISALLOWED."

Procedure code 29822 has a CCI edit conflict with both procedure codes 29824 and 29826, performed the same day (these two procedures are not in dispute). The CCI edit allows a modifier to be used to distinguish separate services. The health care provider has billed procedure code 29822 with modifier -59 to indicate separate services.

The requestor asserts that "Procedure code 29822 was done in the Glenohumeral Joint and 29824 and 29826 were done in the subacromial Joint. Which were performed in separate joints of the shoulder . . ."

However, the respondent submitted documentation in support of the position that "29822 has a modifier status of '1', which indicates the two codes of the code pair edit may be reported if performed on the CONTRALATERAL [opposite side] organ or structure; these code pairs should not be reported with NCCI-associated modifiers when performed on the ipsilateral [same side] organ or structure (as in this case)."

There is no dispute that all procedures were performed during the same patient encounter on the same shoulder (the right side). The question here is whether the shoulder is all one anatomical location, or whether it contains separate anatomical sites. The requestor has the burden of proof in this dispute. The standard of proof required is by a preponderance of the evidence. This review is based on the information submitted for consideration in this medical fee dispute.

The Medicare policy cited by the respondent from Medicare's *National Correct Coding Initiative Policy Manual for Medicare Services* states that "Most edits involving paired organs or structures (e.g., eyes, ears, extremities, lungs, kidneys) have modifier indicators of "1" because the two codes of the code pair edit may be reported if performed on the contralateral organs or structures. Most of these code pairs should not be reported with NCCI-associated modifiers when performed on the ipsilateral organ or structure unless there is a specific coding rationale to bypass the edit. The existence of the NCCI edit indicates that the two codes generally cannot be reported together unless the two corresponding procedures are performed at two separate patient encounters or two separate anatomic locations. However, if the two corresponding procedures are performed at the same patient encounter and in contiguous structures, NCCI-associated modifiers generally should not be utilized."

Review of the information submitted by the requestor finds insufficient information to support the requestor's position that the glenoid labrum is at a separate anatomical site from the location(s) where procedure codes 29824 and 29826 were performed. The requestor has failed to support modifier -59. The insurance carrier's denial reasons are supported. Additional reimbursement cannot be recommended.

## **Conclusion**

For the reasons stated above, the Division finds that the requestor has failed to establish that additional reimbursement is due. As a result, the amount ordered is \$0.00.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the services in dispute.

**Authorized Signature**

\_\_\_\_\_  
Signature

Grayson Richardson  
Medical Fee Dispute Resolution Officer

August 29, 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.**