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

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
JAMES W GALBRAITH MD

Respondent Name
AMERICAN ZURICH INSURANCE CO

MFDR Tracking Number
M4-11-1318-01

Carrier's Austin Representative Box
Box Number 19

MFDR Date Received
December 20, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Per Texas Labor Code 408.021."

Amount in Dispute: $195.00

RESPONDENT'S POSITION SUMMARY

Respondent's Summary: No response submitted, Carrier acknowledged DWC-60 on January 6, 2011.

Response Submitted by: American Zurich Insurance Co

SUMMARY OF FINDINGS

Dates of Service (DOS)	Disputed Services	Amount In Dispute	Amount Due
February 5, 2010 through June 29, 2010	99213 and 99080 73	$195.00	$195.00

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. Former 28 Texas Administrative Code §133.307, 33 *Texas Register* 3954, applicable to requests filed on or after May 25, 2008, sets out the procedures for resolving medical fee disputes filed prior to June 1, 2012.
2. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for E/M services.
3. 28 Texas Administrative Code §129.5 sets out medical bill submission requirements and reimbursement amounts for Work Status reports.
4. Former 28 Texas Administrative Code §133.305(b) sets out dispute sequence regarding disputes.

The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- 852- Payment disallowed. Extent of injury not finally adjudicated.
- W12- Extent of injury. Not finally adjudicated.

Issues

1. Did the requestor meet the requirements of 28 Texas Administrative Code §134.203?
2. Is there an existing extent of injury issue?
3. Is the requestor entitled to reimbursement?

Findings

1. 28 Texas Administrative Code §134.203(b)(1) states, in pertinent part, "for coding, billing reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; … and other payment policies in effect on the date a service is provided…" Review of the submitted documentation finds that the requestor performed an office visit for the evaluation and management of an established patient. The American Medical Association (AMA) CPT code description for 99213 is:

   > Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: An expanded problem focused history; An expanded problem focused examination; Medical decision making of low complexity. Counseling and coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Typically, 15 minutes are spent face-to-face with the patient and/or family.

   The 1997 Documentation Guidelines for Evaluation & Management Services is the applicable Medicare policy. It describes the documentation requirements for the service in dispute. Review of the documentation finds the following:

   - **Documentation of the Detailed History for service date February 5, 2010**
     - History of Present Illness (HPI) consists of one to three elements of the HPI. Documentation found listed one elements , thus meeting this component.
     - Review of Systems (ROS) inquires about the system directly related to the problem. Documentation found listed ten systems, this component was met.
     - Past Family, and/or Social History (PFSH) in not applicable. However, documentation found listed two areas.
   - Documentation of a Detailed Examination:
     - A limited examination of the affected body area. The documentation found supports affected area was examined. This component was met.
   - **Documentation of the Detailed History for service date June 29, 2010**
     - History of Present Illness (HPI) consists of one to three elements of the HPI. Documentation found listed one elements , thus meeting this component.
     - Review of Systems (ROS) inquires about the system directly related to the problem. Documentation found listed one system, this component was met.
     - Past Family, and/or Social History (PFSH) in not applicable.
   - Documentation of a Detailed Examination:
     - A limited examination of the affected body area. The documentation found supports affected area was examined. This component was met.

   The division concludes that the documentation sufficiently supports the level of service billed for service date February 5, 2010 and June 29, 2010.

2. The carrier denied services using claim adjustment code W12 which states that "Extent of injury. Not finally adjudicated." And claim adjustment code 852 "Payment disallowed. Extent of injury not finally adjudicated." 28 Texas Administrative Code §133.305(b) requires that "If a dispute regarding compensability, extent of injury, liability, or medical necessity exists for the same service for which there is a medical fee dispute, the disputes regarding compensability, extent of injury, liability or medical necessity shall be resolved prior to the

submission of a medical fee dispute for the same services in accordance with Labor Code §413.031 and 408.021." The extent of injury was resolved on May 18, 2010 through a contested case hearing(CCH). The division finds that "The compensable injury of May 27, 2009 does not extend to include a lumbar disc protrusion at L5-S1, lumbar radiculopathy, major depressive disorder, or bipolar disorder. Claimant had disability, resulting from the compensable injury sustained on May 27, 2009, from May 28, 2009 through August, 2009, but not thereafter through the date of this hearing." The issues in dispute are not related to the diagnosis code billed for this date of service. The division concludes that there are no unresolved issues of compensability or extent; therefore, the services are reviewed in accordance with the applicable fee guidelines.

3. For the reasons stated above, the service in dispute for service date February 5, 2010 is eligible for payment pursuant to 28 TAC §134.203 (c) as follows: (54.32 / 36.0791)*$65.85 = $99.14

   The division notes that code 99080 73 was listed on the table of disputed services for service date February 5, 2010. Pursuant to 28 Texas Administrative Code §129.5 reimbursement in the amount of $15.00 is recommended.

   The services in dispute for service date June 29, 2010 is eligible for payment pursuant to 28 TAC §134.203 (c) as follows: (54.32 / 36.0791)*$65.85 = $99.14

   The disputed amount per the requestor is $195.00; therefore $195.00 is recommended.

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 $195.00.

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 $195.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

		May 9, 2014
Signature	Medical Fee Dispute Resolution Officer	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.