



**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**

ALLIED MEDICAL CENTERS

**Respondent Name**

TRAVELERS INDEMNITY CO OF CONN

**MFDR Tracking Number**

M4-11-3040-01

**Carrier's Austin Representative**

Box Number 05

**MFDR Date Received**

MAY 9, 2011

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Upon further review we have noted that the correct preauthorization number has been located in the appropriate box on the cms-1500 since it's initial faxing o 1/7/11.."

**Amount in Dispute:** \$169.00

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The Provider submitted billing for multiple therapy CPT codes, which the Carrier denied as the lacked a required modifier."

**Response Submitted By:** Travelers

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 10, 2010	CPT Code 97140-GP Manual therapy techniques (eg, mobilization/ manipulation, manual lymphatic drainage, manual traction), 1 or more regions, each 15 minutes	\$56.00	\$14.87
	CPT Code 97124-GP Therapeutic procedure, 1 or more areas, each 15 minutes; massage, including effleurage, petrissage and/or tapotement (stroking, compression, percussion)	\$43.00	\$0.00
	CPT Code 97032 Application of a modality to 1 or more areas; electrical stimulation (manual), each 15 minutes	\$35.00	\$0.00
	CPT Code 97035 Application of a modality to 1 or more areas; ultrasound, each 15 minutes	\$35.00	\$0.00
TOTAL		\$169.00	\$14.87

## ***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, effective May 25, 2008, sets out the procedures for resolving a medical fee dispute.
2. Texas Labor Code §413.011 sets out reimbursement policies and guidelines.
3. 28 Texas Administrative Code §134.600, effective May 2, 2006, requires preauthorization for specific treatments and services.
4. 28 Texas Administrative Code §133.4, effective July 27, 2008, requires the insurance carrier to notify providers of contractual agreements for informal and voluntary networks.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - TX14-W1-Workers compensation state fee schedule adjustment. PT/OT services requires pre-auth after initial trmt (6 visits) following the DOI. If pre-auth was received, reim is made in accordance with TX MFG.
  - AFFL-45-Charge exceeds fee sch/max allowable or contracted/legislated fee arrangement. This bill has been reviewed/repriced in accordance with fee for svc contract with First Health.
  - Edit-W1-Workers compensation state f/S adj. Payment denied. Based on Medicare payment policy.
  - TXM9-4-The procedure code is inconsistent with the modifier used or a required modifier is missing. Reimbursement is made based on Medicare coding, billing and reimbursement methodologies.

### **Issues**

1. Does a preauthorization issue exist for CPT code 97140-GP?
2. Does a contractual agreement issue for CPT code 97140-GP?
3. Is the requestor entitled to additional reimbursement for CPT code 97140-GP?
4. What is the Medicare policy for billing CPT code 97124-GP in conjunction with 97140-GP?
5. What is the Medicare policy for billing CPT codes 97032 and 97035?

### **Findings**

1. According to the explanation of benefits, the respondent denied reimbursement for CPT code 97140-GP based upon "TX14-W1." On April 29, 2014, the Division contacted the requestor and verified that payment of \$25.79 had been issued for this CPT code. Based upon the code description, the respondent noted that if preauthorization was obtained, payment would be issued. Because payment was issued, the Division concludes that a preauthorization issue does not exist.
2. The respondent also raised the issue of a contractual agreement regarding payment for CPT code 97140-GP based upon a contractual agreement on the EOBs.

28 Texas Administrative Code §133.4(g) states "Noncompliance. The insurance carrier is not entitled to pay a health care provider at a contracted fee negotiated by an informal network or voluntary network if:

(1) the notice to the health care provider does not meet the requirements of Labor Code §413.011 and this section; or

(2) there are no required contracts in accordance with Labor Code §413.011(d-1) and §413.0115."

A review of the submitted documentation finds that the respondent did not submit any documentation to support that a contractual agreement exists between the parties and that the provider was notified in accordance with Labor Code §413.011.

28 Texas Administrative Code §133.4(h) states "Application of Division Fee Guideline. If the insurance carrier is not entitled to pay a health care provider at a contracted rate as outlined in subsection (g) of this section and as provided in Labor Code §413.011(d-1), the Division fee guidelines will apply pursuant to §134.1(e)(1) of this title (relating to Medical Reimbursement), or, in the absence of an applicable Division fee guideline, reimbursement will be based on fair and reasonable reimbursement pursuant to §134.1(e)(3) of this title."

The Division concludes that the respondent's is not entitled to pay the requestor at a contracted fee reduction;

therefore, the disputed services will be reviewed per applicable Division rules and guidelines.

3. Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.  
(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.  
(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2010 DWC conversion factor for this service is 54.32.

The Medicare Conversion Factor is 36.8729

Review of Box 32 on the CMS-1500 the services were rendered in Houston, Texas; therefore, the Medicare participating amount is based upon the locality of "Houston, Texas".

Using the above formula the Division finds:

Code	Medicare Participating Amount	MAR	Amount Paid	Amount Due
97140	\$27.60	\$40.66	\$25.79	\$14.87

4. According to the submitted EOB the respondent denied reimbursement for CPT code 97124-GP based upon Medicare policy.

28 Texas Administrative Code §134.203(b)(1) states "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; 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."

Per National Correct Coding Initiatives Edits, CPT code 97124 is a component of 97140 and may not be billed together; therefore, the respondent's denial based upon Medicare policy is supported. As a result, reimbursement is not recommended for code 97124-GP.

5. The respondent denied reimbursement for CPT codes 97032 and 97035 because the appropriate modifier was missing per Medicare policy.

Per Medicare Policy regarding billing codes 97032 and 97035 are considered"...'always therapy' services, regardless of who performs them. These codes always required therapy modifiers (GP, GO, GN)."

In accordance with 28 Texas Administrative Code §134.203(b)(1), Medicare's policies regarding billing, reporting, coding applies to these services. A review of the submitted billing finds that the requestor did not append the appropriate modifier to these physical therapy codes. As a result, reimbursement cannot be 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 \$14.87.

**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 \$14.87 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

04/30/2014  
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.**