



**Texas Department of Insurance**

**Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48  
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**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

**GENERAL INFORMATION**

**Requestor Name**

COMPREHENSIVE PAIN MANAGEMENT

**Respondent Name**

TPCIGA FOR LUMBERMENS MUTUAL CO

**MFDR Tracking Number**

M4-12-2200-01

**Carrier's Austin Representative**

Box Number 50

**MFDR Date Received**

FEBRUARY 27, 2012

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Part B newsletter 05-049, effective 01/01/05, page 44, CMS notice-drugs used in implantable infusion pumps. For proper reimbursement, all drugs (single or combined agents) used in an implantable infusion pump must be billed using code: J7799KD."

**Amount in Dispute:** \$450.27

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The Carrier has disputed the bill in its entirety, as the bill was submitted in an incorrect form. As such, no reimbursement is due."

**Response Submitted by:** Thornton, Biechlin, Segrato, Reynolds & Guerra, L.C.

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 26, 2011	HCPCS Code J7799 KD Pain Pump Refill	\$110.00	\$0.00
	CPT Code 95990 Pump/refill and maintenance	\$114.17	\$114.17
	CPT Code 77002 Fluoroscopic Guidance	\$116.36	\$101.50
	CPT Code 62368 Electronic Analysis	\$89.74	\$0.00
	HCPCS Code A4220 Refill Kit	\$20.00	\$0.00
TOTAL		\$450.27	\$215.67

**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, 33 *Texas Register* 3954, sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §133.10 requires professional or non-institutional providers to bill on CMS-1500s.
3. 28 Texas Administrative Code §134.203 set out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.
4. 28 Texas Administrative Code §134.1, effective March 1, 2008, 33 *Texas Register* 626, provides for fair and reasonable reimbursement of health care in the absence of an applicable fee guideline.
5. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 12-Submission/billing error(s).

## **Issues**

1. Did the requestor bill services on correct billing form?
2. Did the requestor support position that billing is in accordance with Medicare policy?
3. Is the requestor entitled to reimbursement for J7799-KD?
4. Does the documentation support billing CPT code 95990 and 77002? Is the requestor entitled to reimbursement?
5. Is the allowance of CPT code 62368 included in the allowance of 95990?
6. Is the allowance of CPT code A4220 included in the allowance of 95990?

## **Findings**

1. 28 Texas Administrative Code §133.10(f)(1) requires professional or non-institutional services to be billed on a CMS-1500.

The respondent denied reimbursement for the disputed services based upon reason code "12." In support of the position, the respondent noted that "The Carrier has disputed the bill in its entirety, as the bill was submitted in an incorrect form."

The provider, Misti L. Schroll, ANP billed on a CMS-1500 in accordance with 28 Texas Administrative Code §133.10(f)(1); therefore, the respondent's denial based upon reason code "12" is not supported.

2. HCPCS code J7799 is defined as "NOC drugs, other than inhalation drugs, administered through DME."

28 Texas Administrative Code §134.203(a)(5) states "Medicare payment policies" when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

Trailblazers Health Enterprises published an article titled "Part B Drugs Used in an Implantable Infusion Pump" in October 2011. This article provided coding guidelines that indicate that "...compounded drugs used in an implantable infusion pump must be billed using Not Otherwise Classified (NOC) code J7799KD, whether a single drug or a combination of drugs is administered." This article goes on to state that "Compounded Baclofen (J7799KD) must be billed on a separate detail line of the claim from other J7799KD pain management drugs due to different limited coverage indications." A review of the submitted medical bill supports the requestor's position that HCPCS code J7799KD was billed in accordance with Medicare policy.

3. 28 Texas Administrative Code §134.203(d)(1)(2) and (3) states "The MAR for Healthcare Common Procedure Coding System (HCPCS) Level II codes A, E, J, K, and L shall be determined as follows: (1) 125 percent of the fee listed for the code in the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) fee schedule; (2) if the code has no published Medicare rate, 125 percent of the published Texas Medicaid fee schedule, durable medical equipment (DME)/medical supplies, for HCPCS; or (3) if neither paragraph (1) nor (2) of this subsection apply, then as calculated according to subsection (f) of this section."

The Division finds that HCPCS code J7799KD does not have a fee listed in DMEPOS fee schedule nor a Texas Medicaid fee schedule.

28 Texas Administrative Code §134.203 (f) states "For products and services for which no relative value unit or payment has been assigned by Medicare, Texas Medicaid as set forth in §134.203(d) or §134.204(f) of this title, or the Division, reimbursement shall be provided in accordance with §134.1 of this title (relating to Medical Reimbursement)."

28 Texas Administrative Code §134.1(f) requires in pertinent part, that reimbursement shall: “(1) be consistent with the criteria of Labor Code §413.011; (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available.”

Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.

28 Texas Administrative Code §133.307(c)(2)(G), requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement) when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR), as applicable.” Review of the submitted documentation finds that:

- The requestor has not articulated a methodology under which fair and reasonable reimbursement should be calculated.
- The requestor did not submit documentation to support that reimbursement of \$110.00 is fair and reasonable.
- The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for the services in this dispute.
- The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
- The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for reimbursement is not supported. Thorough review of the documentation submitted by the requestor finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. As a result, payment cannot be recommended.

4. The requestor also billed CPT codes 95900 and 77002. A review of the submitted medical report indicates “Fluoroscopy for device localization and verification of needle placement was used. Pump analysis & reprogram pump analysis with reprogramming was performed.” Therefore, the requestor supported billing CPT codes 95900 and 77002.

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.”

A review of the submitted billing indicates that the provider is a nurse practitioner.

Medicare Claims Processing Manual, Chapter 12, Section 120 states “In general, NPs and CNSs are paid for covered services at 80 percent of the lesser of the actual charge or 85 percent of what a physician is paid under the Medicare Physician Fee Schedule.”

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 2011 DWC conversion factor for this service is 54.54.

The Medicare Conversion Factor is 33.9764.

The Medicare participating amount is \$74.39.

The Division finds the following:

Code	Medicare Participating Amount	MAR	Insurance Carrier Paid	Total Amount Due
95990	\$88.02	\$141.29 X 85% = \$120.10, provider is seeking \$114.17	\$0.00	\$114.17
77002	\$74.39	\$119.41 X 85% = \$101.50	\$0.00	\$101.50

Using the above formula, the MAR for a physician is \$119.41. Per Medicare policy the requestor is due \$101.50 (85% of \$119.41). The respondent paid \$0.00. As a result, \$101.50 is recommended for reimbursement.

5. The requestor also billed CPT code 62368 on the disputed date of service. Per CCI edits, code 62368 is included in the allowance of code 95990, and a modifier is not allowed to differentiate the service; therefore, reimbursement is not recommended.
6. The requestor also billed HCPCS code A4220 on the disputed date of service. Per CCI edits, code A4220 is included in the allowance of code 95990, and a modifier is not allowed to differentiate the service; therefore, reimbursement is not 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 \$215.67.

### ***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 \$215.67 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

\_\_\_\_\_  
Signature

Elizabeth Pickle, RHIA  
Medical Fee Dispute Resolution Officer

02/26/2015  
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.**