



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

TEXAS HEALTH INJURY 1 OF DALLAS

Respondent Name

SENTRY INSURANCE A MUTUAL CO

MFDR Tracking Number

M4-13-2255

Carrier's Austin Representative

Box Number 19

MFDR Date Received

May 6, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "...it is our position that Sentry Insurance has established an unfair and unreasonable time frame in paying for the services that were medically necessary and rendered to [injured employee]."

Amount in Dispute: \$2,056.12

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The provider requests reimbursement for DOS spanning from 10/25/12 through 3/12/13. Provider argues that services were preauthorized. The 10/25/12 service was not. The preauth letter dated 11/2/12 covers CPT code 90806 for a period of 11/2/12 through 1/4/13. The service on 12/13/12 was for CPT code 96151. That was not preauthed. DOS of 1/9/13, 1/15/13, and 1/16/13 were nor preauthed. The preauth letter dated 2/18/13 covered a period of 2/12/13 though 4/12/13 for CPT code 90834... So, insofar as either preauthed code related to that alleged condition, the treatments provided under the preauthed CPT codes did not relate to the compensable injury."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 25, 2012 through March 12, 2013	90801, 90806 x 9, 96151 x 2 and 90834 x 2	\$2,056.12	\$531.76

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 §133.305, sets out the Medical Dispute Resolution general guidelines.
3. 28 Texas Administrative Code §134.203, sets out the Medical Fee Guideline for Professional Services.
4. 28 Texas Administrative Code §134.600, requires preauthorization for non-emergency health care.

5. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 216 – Based on the findings of a review organization
 - 1 – Unnecessary medical treatment and or service peer review; documentation attached
 - 181 – Procedure code was invalid on the date of service
 - 16 – Claim/service lacks information which is needed for adjudication
 - 1 – This procedure code or National Drug Code (NDC) is not valid for this date of service. Resubmit the bill with a valid procedure code or National Drug Code (NDC)
 - 1 – This service/procedure/item is not related to the Compensable Workers' Compensation Injury.
 - 214 – Workers' Compensation claim adjudicated as non-compensable. This Payer not liable for claim or service/treatment.

Issues

1. Was the request for medical fee dispute resolution filed in accordance with 28 Texas Administrative Code §133.305 and §133.307, for dates of service November 14, 2012 (CPT Code 90806), December 13, 2012 (CPT Code 96151), December 28, 2012 (CPT Code 90806), January 15, 2013 (CPT Code 90806), February 25, 2013 (CPT Code 90834), March 12, 2013 (CPT Code 90834), October 25, 2012 (CPT Code 90801), January 15, 2013 (CPT Code 90806), and January 16, 2013 (CPT Code 96151)?
2. Is the disputed service rendered on November 14, 2012 (CPT Code 90806), December 13, 2012 (CPT Code 96151), December 28, 2012 (CPT Code 90806), January 15, 2013 (CPT Code 90806), February 25, 2013 (CPT Code 90834), March 12, 2013 (CPT Code 90834), October 25, 2012 (CPT Code 90801), January 15, 2013 (CPT Code 90806), and January 16, 2013 (CPT Code 96151) eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307?
3. Did the requestor submit a bill in accordance with 28 Texas Administrative Code 134.203(b)(1) for dates of service January 4, 2013 and January 9, 2013?
4. Did the requestor obtain preauthorization for CPT Code 90806 rendered on November 7, 2012, November 20, 2012, November 27, 2012 and December 4, 2012?
5. Is the requestor entitled to reimbursement for CPT Code 90806 rendered on November 7, 2012, November 20, 2012, November 27, 2012 and December 4, 2012?

Findings

1. The medical fee dispute referenced above contains unresolved issues of extent-of-injury for dates of service, November 14, 2012 (CPT Code 90806), December 13, 2012 (CPT Code 96151), December 28, 2012 (CPT Code 90806), January 15, 2013 (CPT Code 90806), February 25, 2013 (CPT Code 90834) and March 12, 2013 (CPT Code 90834).

The medical fee dispute referenced above contains unresolved issues of medical necessity for dates of service, October 25, 2012 (CPT Code 90801), January 15, 2013 (CPT Code 90806), and January 16, 2013 (CPT Code 96151).

The insurance carrier notified the requestor of such issues in its explanation of benefits (EOB) response(s) during the medical bill review process.

28 Texas Administrative Code §133.305(b) requires that extent-of-injury and medical necessity disputes be resolved prior to the submission of a medical fee dispute for the same services. 28 Texas Administrative Code §133.307(f) (3) (C) provides for dismissal of a medical fee dispute if the request for the medical fee dispute contains an unresolved extent-of-injury dispute for the claim and an unresolved medical necessity dispute for the claim. 28 Texas Administrative Code §133.307(c) (2) (K) provides that a request for a medical fee dispute must contain a copy of each EOB related to the dispute.

The Division hereby notifies the requestor that for dates of service; November 14, 2012 (CPT Code 90806), December 13, 2012 (CPT Code 96151), December 28, 2012 (CPT Code 90806), January 15, 2013 (CPT Code 90806), February 25, 2013 (CPT Code 90834) and March 12, 2013 (CPT Code 90834), the appropriate process to resolve the issue(s) of extent-of-injury, including disputes or disagreements among the parties over whether the medical services in dispute were related to the compensable injury, may be found in Chapter 410 of the Texas Labor Code, and 28 Texas Administrative Code §141.1.

The Division hereby notifies the requestor that for dates of service; October 25, 2012 (CPT Code 90801), January 15, 2013 (CPT Code 90806), and January 16, 2013 (CPT Code 96151), the appropriate process for resolution of an unresolved issue of medical necessity, requires filing for an independent review to be conducted by an IRO (independent review organization) appropriately licensed by the Texas Department of Insurance, pursuant to 28 Texas Administrative Code §133.308. Information applicable to HEALTH CARE PROVIDERS on how to file for an IRO may be found at http://www.tdi.texas.gov/hmo/iro_requests.html under **Health Care Providers or their authorized representatives.**

2. 28 Texas Administrative Code §133.307(f) (3) provides that a dismissal is not a final decision by the Texas Department of Insurance, Division of Workers' Compensation ("Division"). The medical fee dispute may be submitted for review as a new dispute that is subject to the requirements of 28 Texas Administrative Code §133.307. 28 Texas Administrative Code §133.307 (c)(1)(B) provides that a request for medical fee dispute resolution may be filed not later than 60 days after a requestor has received the final decision, inclusive of all appeals, on the extent-of-injury dispute.

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution. This dismissal is based upon a review of all the evidence presented by the parties in this dispute. Even though not all the evidence was discussed, it was considered. The Division finds that dates of service; November 14, 2012 (CPT Code 90806), December 13, 2012 (CPT Code 96151), December 28, 2012 (CPT Code 90806), January 15, 2013 (CPT Code 90806), February 25, 2013 (CPT Code 90834), March 12, 2013 (CPT Code 90834), October 25, 2012 (CPT Code 90801), and January 16, 2013 (CPT Code 96151), are not eligible for medical fee dispute resolution under 28 Texas Administrative Code §133.307. Therefore, the medical fee dispute resolution staff has no authority to consider and/or order any payment in this medical fee dispute for these dates of service. As a result, no amount is ordered.

3. The requestor seeks reimbursement for CPT Code 90806 rendered on January 4, 2013 and January 9, 2013. The insurance carrier denied/reduced the disputed service with denial/reduction code "181 – Procedure code was invalid on the date of service; 16 – Claim/service lacks information which is needed for adjudication and 1 – This procedure code or National Drug Code (NDC) is not valid for this date of service. Resubmit the bill with a valid procedure code or National Drug Code (NDC)."

The AMA CPT Code book defines CPT Code 90806 as "Individual psychotherapy, insight oriented, behavior modifying and/or supportive, in an office or outpatient facility, approximately 45 to 50 minutes face-to-face with the patient", and further documents that CPT Code 90806 was deleted on January 1, 2013 and CPT Code 90834 replaced CPT Code 90806.

28 Texas Administrative Code §134.203 "(b) 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."

The Division finds that the requestor did meet the requirements in 28 Texas Administrative Code §134.203 (b)(1), as a result reimbursement cannot be recommended for dates of service January 4, 2013 and January 9, 2013.

4. The insurance carrier denied/reduced the disputed service, CPT Code 90806 rendered on November 7, 2012, November 20, 2012, November 27, 2012 and December 4, 2012 with denial reason code "216 – Based on the findings of a review organization and 1 – Unnecessary medical treatment and or service peer review; documentation attached."

28 Texas Administrative Code §134.600 states in pertinent part, "(p) Non-emergency health care requiring preauthorization includes... (7) all psychological testing and psychotherapy, repeat interviews, and biofeedback, except when any service is part of a preauthorized or division exempted return-to-work rehabilitation program."

Review of the preauthorization letter dated November 2, 2012 issued by Coventry Workers' Comp Services documents the following:

Requested Service Description	Individual psychotherapy 1xwx6wks for right wrist -- 90806
Certified Quantity	6 Visit(s)
Start Date	11/02/12
End Date	01/04/13
Requesting Provider	Bruce Wardlay

28 Texas Administrative Code §134.600 states in pertinent part, "(c) The insurance 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..."

The Division finds that the insurance preauthorized CPT Code 90806 rendered on November 7, 2012, November 20, 2012, November 27, 2012 and December 4, 2012 therefore, the requestor is entitled to reimbursement for these dates of service, pursuant to 28 Texas Administrative Code 134.203 (c).

5. 28 Texas Administrative Code §134.203 states in pertinent part, "(c) 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 MAR for CPT Code 90806 is \$132.94 x 4 DOS = a total recommended amount of \$531.76, therefore this amount 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 \$531.76.

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 \$531.76 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

November 12, 2015
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request 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 §141.1(d).

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