



# 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**

East Houston Orthopedics & Sports Medicine

**Respondent Name**

American Casualty Co of Reading

**MFDR Tracking Number**

M4-14-1245-01

**Carrier's Austin Representative**

Box Number 47

**MFDR Date Received**

January 3, 2014

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "We disagree with denial. We follow all correct coding guidelines. Claim was originally denied by Sedgwick stating benefit for this service is included in the payment allowance for another service/procedure that has already been adjudicated. We appealed the denial on 10/29/13 explaining to Sedgwick that cpt code 99221-E/M service on the day before or on the day of major surgery are not included in the global surgery payment and that this E/M code service may be billed separately and identified with the modifier 57."

**Amount in Dispute:** \$250.00

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** Written acknowledgement of medical fee dispute received however, no position statement submitted.

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 25, 2013	99221-57	\$250.00	\$161.76

#### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Administrative 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 reimbursement 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
  - B13 – Previously paid. Payment for this claim/service may have been provided in a previous payment
  - 247 – A payment or denial has already been recommended for this service

## **Issues**

1. Did the requestor support are separately payable?
2. What is the applicable rule to determine reimbursement?
3. Is the requestor entitled to reimbursement?

## **Findings**

1. The Division placed a copy of the Medical Fee Dispute Resolution request in the insurance carrier's Austin representative box, which was acknowledged received on January 13, 2014. The insurance carrier did not submit a response for consideration in this review. Per the Division's former rule at 28 Texas Administrative Code §133.307(d)(1), effective May 25, 2008, 33 *Texas Register* 3954, "If the Division does not receive the response information within 14 calendar days of the dispute notification, then the Division may base its decision on the available information." Accordingly, this decision is based on the available information.
2. The carrier denied the disputed service as, 97 – "Payment adjusted because the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated." 28 Texas Administrative Code §134.203(b) 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 Medicare Learning Network Global Surgery Fact Sheet, [www.cms.hhs.gov](http://www.cms.hhs.gov), which states in pertinent part, "How is Global Surgery classified? 90-day Post-Operative Period (major procedures). What services are not included in the global surgery payment? ...Initial consultation or evaluation of the problem by the surgeon to determine the need for major surgeries. This is billed separately using the modifier -57 (Decision for Surgery). This visit may be billed separately one for major surgical procedures." The surgery CPT code of 26952 has a Global Surgical period of 90 days and is therefore a "major" surgery. The -57 modifier is supported in this case. 28 Texas Administrative Code §134.203 (c) states, "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 (date of service annual conversion factor)."
  - Procedure code 99221, service date October 25, 2013, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 1.92 multiplied by the geographic practice cost index (GPCI) for work of 1.009 is 1.93728. The practice expense (PE) RVU of 0.82 multiplied by the PE GPCI of 1.002 is 0.82164. The malpractice RVU of 0.18 multiplied by the malpractice GPCI of 0.923 is 0.16614. The sum of 2.92506 is multiplied by the Division conversion factor of \$55.30 for a MAR of \$161.76.

The total allowable reimbursement for the services in dispute is \$161.76. This amount less the amount previously paid by the insurance carrier of \$0.00 leaves an amount due to the requestor of \$161.76. 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 \$161.76.

## ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Administrative 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 \$161.76 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

\_\_\_\_\_  
September 25, 2014  
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.**