



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

#### **Requestor Name and Address**

BAYLOR ORTHOPEDIC AND SPINE HOSPITAL  
707 HIGHLANDER BLVD  
ARLINGTON TX 76015

#### **Respondent Name**

LM Insurance Corp

#### **Carrier's Austin Representative Box**

Box Number 01

#### **MFDR Tracking Number**

M4-14-1416-01

#### **MFDR Date Received**

January 22, 2014

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "The claim listed above was not processed according to Texas fee guidelines for outpatient services."

**Amount in Dispute:** \$5,420.96

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "...Payment was therefore issued to Access Mediquip for the implants used for the surgery in question and Baylor Orthopedic & Spine Hospital was reimbursed @130% of the fee schedule allowance as implants were paid separately to an implantable provider."

**Response Submitted by:** Liberty Mutual, 303 Jesse Jewell Parkway S.E. Suite 500, Gainesville, GA 30501

### **SUMMARY OF FINDINGS**

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
April 29, 2013	Outpatient Hospital Services	\$5,420.96	\$0.00

### **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. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, sets out the reimbursement guidelines for professional medical services.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - U634 – Procedure code not separately payable under Medicare and or fee schedule guidelines.
  - Z710 – The charge for this procedure exceeds the fee schedule allowance.

- 193 – Original payment decision is being maintained.

## **Issues**

1. What is the applicable rule for determining reimbursement for the disputed services?
2. What is the recommended payment amount for the services in dispute?
3. Is the requestor entitled to reimbursement?

## **Findings**

1. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests separate reimbursement of implantables. Review of the submitted documentation finds that separate reimbursement for implantables was requested by the implant provider, "Access Mediquip". Therefore, per §134.403(f)(1)(B), the facility specific reimbursement amount including outlier payments is multiplied by 130 percent.
2. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published quarterly in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:
  - Procedure code 36415 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$3.00. 125% of this amount is \$3.75
  - Procedure code 85025 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is \$10.69. 125% of this amount is \$13.36. Reimbursement is the lesser of the MAR or the provider's usual and customary charge of \$10.30. The lesser amount is \$10.30.
  - Procedure code 29807 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 100%. These services are classified under APC 0042, which, per OPPS Addendum A, has a payment rate of \$3,880.22. This amount multiplied by 60% yields an unadjusted labor-related amount of \$2,328.13. This amount multiplied by the annual wage index for this facility of 0.9554 yields an adjusted labor-related amount of \$2,224.30. The non-labor related portion is 40% of the APC rate or \$1,552.09. The sum of the labor and non-labor related amounts is \$3,776.39. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,025. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line is \$3,776.39. This amount multiplied by 130% yields a MAR of \$4,909.31.
  - Procedure code 29824 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0041, which, per OPPS Addendum A, has a payment rate of \$2,111.62. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,266.97. This amount multiplied by the annual wage index for this facility of 0.9554 yields an adjusted labor-related amount of \$1,210.46. The non-labor related portion is 40% of the APC rate or

\$844.65. The sum of the labor and non-labor related amounts is \$2,055.11. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,025. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line, including multiple-procedure discount, is \$1,027.56. This amount multiplied by 130% yields a MAR of \$1,335.83.

- Procedure code 29826 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0041, which, per OPPS Addendum A, has a payment rate of \$2,111.62. This amount multiplied by 60% yields an unadjusted labor-related amount of \$1,266.97. This amount multiplied by the annual wage index for this facility of 0.9554 yields an adjusted labor-related amount of \$1,210.46. The non-labor related portion is 40% of the APC rate or \$844.65. The sum of the labor and non-labor related amounts is \$2,055.11. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,025. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line, including multiple-procedure discount, is \$1,027.56. This amount multiplied by 130% yields a MAR of \$1,335.83.
- Procedure code 29827 has a status indicator of T, which denotes a significant procedure subject to multiple-procedure discounting. The highest paying status T procedure is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. These services are classified under APC 0042, which, per OPPS Addendum A, has a payment rate of \$3,880.22. This amount multiplied by 60% yields an unadjusted labor-related amount of \$2,328.13. This amount multiplied by the annual wage index for this facility of 0.9554 yields an adjusted labor-related amount of \$2,224.30. The non-labor related portion is 40% of the APC rate or \$1,552.09. The sum of the labor and non-labor related amounts is \$3,776.39. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$2,025, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. The OPPS Facility-Specific Impacts file does not list a cost-to-charge ratio (CCR) for this provider. The requestor did not submit documentation of the facility CCR for consideration in this review. Per Medicare policy, when the provider's CCR cannot be determined, the CCR is estimated using the statewide average CCR as found in Medicare's OPPS Annual Policy Files. Medicare lists the Urban Texas 2013 Default CCR as 0.206. This ratio multiplied by the billed charge of \$9,767.00 yields a cost of \$2,012.00. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for these services of \$1,888.20 divided by the sum of all APC payments is 24.46%. The sum of all packaged costs is \$1,089.87. The allocated portion of packaged costs is \$266.58. This amount added to the service cost yields a total cost of \$2,278.58. The cost of these services exceeds the annual fixed-dollar threshold of \$2,025. The amount by which the cost exceeds 1.75 times the OPPS payment is \$0.00. The total Medicare facility specific reimbursement amount for this line, including multiple-procedure discount, is \$1,888.20. This amount multiplied by 130% yields a MAR of \$2,454.66.
- Procedure code J0690 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code J1885 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code J2001 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code J2001 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code J2001 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code J2250 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code J2405 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code J2765 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code J2795 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code J3010 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
- Procedure code 93005. These services are classified under APC 0099, which, per OPPS Addendum A, has a payment rate of \$26.67. This amount multiplied by 60% yields an unadjusted labor-related amount of

\$16.00. This amount multiplied by the annual wage index for this facility of 0.9554 yields an adjusted labor-related amount of \$15.29. The non-labor related portion is 40% of the APC rate or \$10.67. The sum of the labor and non-labor related amounts is \$25.96. The cost of these services does not exceed the annual fixed-dollar threshold of \$2,025. The outlier payment amount is \$0. The total Medicare facility specific reimbursement amount for this line is \$25.96. This amount multiplied by 130% yields a MAR of \$33.75.

3. The total allowable reimbursement for the services in dispute is \$10,083.42. This amount less the amount previously paid by the insurance carrier of \$10,086.66 leaves an amount due to the requestor of \$0.00. No additional reimbursement can be recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is 0.00.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

Signature	Medical Fee Dispute Resolution Officer	March , 2014 Date
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### ***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.**