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

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address
ERIC A VANDERWERFF DC
615 N OCONNOR ROAD 12
IRVING TX 75061

Respondent Name
OLD REPUBLIC GENERAL INSURANCE

Carrier's Austin Representative Box
Box Number 44

MFDR Tracking Number
M4-14-1500-01

MFDR Date Received
JANUARY 27, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The Initial FCE was performed on **2/20/13**…The next FCE was performed on **3/5/**13…The patient is then required an exit FCE…These 3 FCE evaluations were performed legitimately."

Amount in Dispute: $974.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated February 18, 2014: "For date of service 2/20/13 please note that we show payment in full and our records indicate the check was cashed on 3/13/13, please see attach payment to date and EOB. For date of service 3/5/2013 we have escalated the claim for further review by the bill audit company and it remains in process at this time. Attached please find our EOB's, bills, reports and payment to date for date of service 3/5/2013."

Respondent's Supplemental Position Summary Dated February 27, 2014: "Our bill review vendor has reviewed this dispute for Date of Service 3/5/13 and it is our opinion that no further monies are due."

Response Submitted by: Gallagher Bassett Services, Inc.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 20, 2013	CPT Code 97750-FC (16 units) Functional Capacity Evaluation	$779.20	$0.00
March 5, 2013	CPT Code 97750-FC (16 units) Functional Capacity Evaluation	$194.80	$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 §134.204 and §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits

- 45-Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement.
- 18-Duplicate claim/service.

Issues

1. Does a contractual agreement issue exist in this dispute?
2. Is the requestor entitled to reimbursement for the functional capacity evaluation rendered on February 20, 2013 and March 5, 2013?

Findings

1. According to the submitted explanations of benefits, the insurance carrier reduced or denied disputed services with reason code “45-Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement .” Review of the submitted information found no documentation to support that the disputed services were subject to a contractual agreement between the parties to this dispute. The respondent has not supported the above denial/reduction explanation. For this reason, the disputed services will be reviewed for payment in accordance with applicable Division fee guidelines

2. 28 Texas Administrative Code §134.204 (g) states ”The following applies to Functional Capacity Evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the Division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT Code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c)(1) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a Division ordered test; a maximum of two hours for an interim test; and, a maximum of three hours for the discharge test, unless it is the initial test. Documentation is required.”

   CPT code 97750 is defined as “Physical performance test or measurement (eg, musculoskeletal, functional capacity), with written report, each 15 minutes.”

   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 2013 DWC conversion factor for this service is 55.3.

   The Medicare Conversion Factor is 34.023

   Review of Box 32 on the CMS-1500 the services were rendered in zip code 75061 in Irving, Texas. Per Medicare the provider is reimbursed using the locality of Dallas, Texas.

   The Medicare Participating amount for code 97750 is $33.60/15 minutes.

Using the above formula, the Division finds the following:

DATE	TEST	No. of Units Billed	No. of Units Allowed per 28 Texas Administrative Code §134.204 (g)	TOTAL MAR	TOTAL PAID	AMOUNT DUE
2/20/2013	97750-FC	16	16 for Initial Test	$873.80 or lesser amount billed by provider = $779.20	$779.20	$0.00
3/5/2013	97750-FC	16	8 for Interim Test	$436.90	$584.40	$0.00

As a result, the Division finds the requestor is due $0.00.

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 $00.00.

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	03/07/2014 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.

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