



# 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**

DR. ROBERT B. FRASER

**Respondent Name**

TEXAS MUTUAL INSURANCE CO

**MFDR Tracking Number**

M4-15-1613-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

JANUARY 29, 2015

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "Performing a Bike or Treadmill stress test was contraindicated and would have put the Claimant at undue risk for a cardiovascular incident if performed as part of this functional capacity evaluation. Performing a Bike or Treadmill stress test was contraindicated based on signs of arrhythmia and high blood pressure during the material and nonmaterial handling activities which are signs of poor cardiovascular health and endurance. Performing a Bike or Treadmill stress test was contraindicated based on signs of increasing fatigue and respiration prior to performing the CV Screening test. Texas Mutual provides no rational for denying payment for the functional capacity evaluation based on the fact that I made a clinical decision to not put this Claimant's health at risk by having him perform a Bike or Treadmill test with elevated blood pressure and heart rate. [As noted in my narrative report]. My clinical decision to defer this test was based on sound clinical judgment and the fact that this Claimant was already showing signs of cardiovascular stress which would have put him at risk of further aggravating his spinal injury, having a cardiovascular incident of suffering a heart attack."

**Amount in Dispute:** \$1,200.00

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The requestor billed an incomplete FCE for services provided on the date above. The cardiovascular portion of the evaluation does not show use of a stationary bike or treadmill consistent with Rule 134.201(g)(3)(C). The requestor argues the testing was terminated because of the cardiovascular stress the claimant was manifesting. Certainly, there are instances when the testing could be terminated per above. However, Rule 134.201 makes no provision for partial payment of an FCE. Therefore, the requestor wants to receive payment for an incomplete FCE based. No payment is due."

**Response Submitted By:** Texas Mutual Insurance Co.

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 26, 2014	CPT Code 97750-FC- (8 units) Functional Capacity Evaluation (FCE)	\$1,200.00	\$349.58

#### 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:
  - A07-Documentation does not meet the level of service required for FCE per Rule 134.204(G)3(C).
  - CAC-W3, 350-In accordance with TDI-DWC rule 134.804. This bill has been identified as a request for reconsideration or appeal.
  - CAC-150-Payer deems the information submitted does not support this level of service.
  - CAC-16-Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.
  - CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - 225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
  - 724-No additional payment after a reconsideration of service.

## **Issues**

1. Does the documentation support the level of service billed?
2. Is the requestor entitled to additional reimbursement for the FCE rendered on September 26, 2014?

## **Findings**

1. This dispute relates to services with reimbursement subject to the provisions of 28 Texas Administrative Code §134.204.

On the disputed date of service, the requestor billed CPT code 97750-FC-59.

The American Medical Association (AMA) Current Procedural Terminology (CPT) defines CPT code 97750 as "Physical performance test or measurement (eg, musculoskeletal, functional capacity), with written report, each 15 minutes."

The requestor appended modifier "FC" to code 97750. 28 Texas Administrative Code §134.204(n)(3) states "The following Division Modifiers shall be used by HCPs billing professional medical services for correct coding, reporting, billing, and reimbursement of the procedure codes. (3) FC, Functional Capacity-This modifier shall be added to CPT Code 97750 when a functional capacity evaluation is performed".

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. FCEs shall include the following elements:

(1) A physical examination and neurological evaluation, which include the following:

- (A) appearance (observational and palpation);
- (B) flexibility of the extremity joint or spinal region (usually observational);
- (C) posture and deformities;
- (D) vascular integrity;
- (E) neurological tests to detect sensory deficit;
- (F) myotomal strength to detect gross motor deficit; and
- (G) reflexes to detect neurological reflex symmetry.

(2) A physical capacity evaluation of the injured area, which includes the following:

- (A) range of motion (quantitative measurements using appropriate devices) of the injured joint or region; and
- (B) strength/endurance (quantitative measures using accurate devices) with comparison to contralateral side or normative database. This testing may include isometric, isokinetic, or isoinertial devices in one or more planes.

(3) Functional abilities tests, which include the following:

- (A) activities of daily living (standardized tests of generic functional tasks such as pushing, pulling, kneeling, squatting, carrying, and climbing);

- (B) hand function tests that measure fine and gross motor coordination, grip strength, pinch strength, and manipulation tests using measuring devices;
- (C) submaximal cardiovascular endurance tests which measure aerobic capacity using stationary bicycle or treadmill; and
- (D) static positional tolerance (observational determination of tolerance for sitting or standing).”

The respondent denied reimbursement for the FCE stating “The cardiovascular portion of the evaluation does not show use of a stationary bike or treadmill consistent with Rule 134.201(g)(3)(C).”

The requestor states that “Maximum safe allowable heart rate was determined to be 118bpm based on the type of injury, clinical findings and signs of high blood pressure observed during the material and nonmaterial handling activities. [Claimant] showed signs of arrhythmia and high blood pressure during this functional capacity evaluation which is a contraindication for performing a treadmill or bike test without medical supervision and appropriate emergency medical equipment.” The Division finds that the requestor supported the decision to not perform the cardiovascular endurance test due to the health risk; therefore, reimbursement for the time spent performing the evaluation is recommended.

The requestor states in the position summary that the disputed FCE was requested by the Designated Doctor. A review of the submitted medical bill indicates that the requestor billed for 8 units; however, the FCE indicates that the evaluation started at 11:45am and ended at 1:30pm for a total of 7 units, which equals 1 3/4 hours; therefore, the requestor did not exceed the four hour limit set in 28 Texas Administrative Code §134.204(g) for Division ordered FCEs.

Per 28 Texas Administrative Code §134.204(g) to determine the reimbursement for FCEs the Division refers to 28 Texas Administrative Code §134.203(c)(1)(2).

Per 28 Texas Administrative Code §134.203(c)(1)(2), the following formula is used to calculate the Maximum Allowable Reimbursement (MAR): (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = MAR.

The 2014 DWC conversion factor for this service is 55.75.

The Medicare Conversion Factor is 35.8228.

Review of Box 32 on the CMS-1500 the services were rendered in zip code 78801, which is located in Uvalde, Texas. Therefore, the Medicare participating amount will be based on the reimbursement for “Rest of Texas”.

The Medicare participating amount for code 97750 is \$32.09.

The Division finds that the MAR is \$49.94/unit X 7 units = \$349.58. The respondent paid \$0.00. As a result, \$349.58 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 \$349.58.

***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 \$349.58 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	07/01/2015 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.**