



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

DENTON SURGICARE

Respondent Name

TEXAS COUNCIL RISK MANAGEMENT

MFDR Tracking Number

M4-15-1871-01

Carrier's Austin Representative

Box Number 43

MFDR Date Received

FEBRUARY 20, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This device intensive claim was billed requesting the procedure be paid at the service portion rate with separate reimbursement for the implant plus interest. The correct allowed amount of the procedure is \$34,460.00. The implant should be paid at cost plus \$2000.00 interest. Interest is paid at the rate of 10% up to \$1000.00 per item or \$2000.00 per case."

Amount in Dispute: \$30,432.40

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "After careful review of TAC Rule 134.402 and the Federal Register Vol 78 No. 237 the third party administrator (TPA), JI Specialty Services, has determined that additional reimbursement is due."

Responses Submitted By: JI Specialty Services

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 22, 2014	Ambulatory Surgical Care for CPT Code 63650	\$30,432.40	\$432.09
	Ambulatory Surgical Care for CPT Code 63688		
	HCPCS Codes L8687, L8680, L8689, L8681		

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable 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.

2. 28 Texas Administrative Code §134.402, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 150-Payment adjusted because the payer deems the information submitted does not support this level of service.
 - 245-The service provided was greater than that usually required for the listed procedure.
 - 983-Charge for this procedure exceeds Medicare ASC schedule allowance.
 - P12-Workers compensation jurisdictional fee schedule adjustment.
 - 4123-Allowance is based on Texas ASC device intensive procedure calculation and guidelines.
 - W3-Additional payment made on appeal/reconsideration of \$21,525.21.

Issues

Is the requestor entitled to additional reimbursement for services rendered July 22, 2014?

Findings

According to the explanation of benefits, the respondent paid for the disputed services based upon the fee schedule.

28 Texas Administrative Code §134.402(d) states “ For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section.”

On the disputed date of service, the requestor billed CPT codes 63650, 63688, L8687, L8680, L8689, and L8681.

- 63650 is defined as “Percutaneous implantation of neurostimulator electrode array, epidural.”
- 63688 is defined as “Revision or removal of implanted spinal neurostimulator pulse generator or receiver.”
- L8687 is defined as “Implantable neurostimulator pulse generator, dual array, rechargeable, includes extension.”
- L8680 is defined as “Implantable neurostimulator electrode, each.”
- L8689 is defined as “External recharging system for battery (internal) for use with implantable neurostimulator, replacement only.”
- L8681 is defined as “Patient programmer (external) for use with implantable programmable neurostimulator pulse generator, replacement only.”

Per the submitted medical bill, the requestor sought separate reimbursement for the implantables.

- A.** Per Addendum AA, code 63650 is a device intensive procedure. To determine the MAR For Device Intensive Procedures the Division refers to 28 Texas Administrative Code §134.402(f)(2)(B)(i) and (ii).

28 Texas Administrative Code §134.402(f)(2)(B)(i) and (ii) states, “The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the Federal Register. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the Federal Register, or its successor. The following minimal modifications apply: (2) Reimbursement for device intensive procedures shall be: (B) If an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the device intensive procedure shall be the sum of: (i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission; and (ii) the ASC service portion multiplied by 235 percent.”

To determine the MAR for code 63650 is a four-step process:

Step 1-Gather factors:

- According to Addendum B found on CMS website, the hospital outpatient prospective payment amount for code 63650 is \$4,626.50.
- The device dependent APC offset percentage for code 63650 is 55%.
- According to Addendum AA found on CMS website, CPT code 63650 has a Medicare fully implemented ASC reimbursement of \$3,691.78.
- The Core Based Statistical Area (CBSA-City Wage Index) located on the White House/OMB website or CMS website for Denton, TX is 0.9831.

Step 2- To determine the device portion, you multiply the hospital outpatient prospective payment amount times the device dependent APC offset percentage:

\$4,626.50 multiplied by 55% = \$2,544.57.

Step 3 - Find the geographically adjusted Medicare ASC reimbursement for code 63650. This step requires calculations:

- The Medicare fully implemented ASC reimbursement rate of \$3,691.78 is divided by 2 = \$1,845.89.
- This number multiplied by the City Wage Index for Denton, TX \$1,845.89X 0.9831 = \$1,814.69.
- The sum of these two is the geographically adjusted Medicare ASC reimbursement = \$3,660.58

Step 4- To determine the service portion:

- Subtract the device portion from the geographically adjusted Medicare ASC reimbursement \$3,660.58 minus \$2,544.57 = \$1,116.01.
- Multiply the service portion by the DWC payment adjustment factor of 235% = \$2,622.62

- B. Per Addendum AA, code 63688 is a non-device intensive procedure. To determine the MAR for Non-Device Intensive Procedures the Division refers to 28 Texas Administrative Code §134.402(f)(1)(B).

28 Texas Administrative Code §134.402(f)(1)(B)(i) and (ii) states, "The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the *Federal Register*. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the *Federal Register*, or its successor. The following minimal modifications apply: (1) Reimbursement for non-device intensive procedures shall be: (B) if an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the non-device intensive procedure shall be the sum of: (i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission; and (ii) the Medicare ASC facility reimbursement amount multiplied by 153 percent."

To determine the MAR for code 63688 is a three-step process:

Step 1-Gather factors:

- According to Addendum AA found on CMS website, CPT code 63688 has a Medicare fully implemented ASC reimbursement of \$1,227.57.
- The Core Based Statistical Area (CBSA-City Wage Index) located on the White House/OMB website or CMS website for Denton, TX is 0.9831.

Step 2 - Find the geographically adjusted Medicare ASC reimbursement for code 63688. This step requires calculations:

- The Medicare fully implemented ASC reimbursement rate of \$1,227.57 is divided by 2 = \$613.78.
- This number multiplied by the City Wage Index for Denton, TX $\$613.78 \times 0.9831 = \603.40 .
- The sum of these two is the geographically adjusted Medicare ASC reimbursement = \$1,217.18

Step 3- To determine the MAR:

Multiply the service portion by the DWC payment adjustment factor of 153% = \$1,862.28

- C. Per 28 Texas Administrative Code §134.402(e)(2) states “Regardless of billed amount, reimbursement shall be: if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any reimbursement for implantables.”

To determine the implant portion:

- Per submitted invoice the total charges for implants used in surgery is \$23,500.00 + \$2,000.00 add on = \$25,500.00.

Per 28 Texas Administrative Code §134.402(f)(2)(B)(i) and (ii), the MAR for services rendered on July 22, 2014 is $\$2,622.62 + \$1,862.28 + \$25,500.00 = \$29,984.90$. The respondent paid \$29,552.81. As a result, additional reimbursement of \$432.09 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 \$432.09.

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 \$432.09 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

Date

11/05/15

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, 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 MFDR 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.