



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

HOUSTON MEDICAL GROUP

Respondent Name

FEDERAL INSURANCE CO

MFDR Tracking Number

M4-16-1139-01

Carrier's Austin Representative

Box Number 17

MFDR Date Received

DECEMBER 30, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Initially the claim was denied because the insurance stated the time limit for filing had expired so I appealed it on 10/08/15. Again the appeal was denied for timely filing even though proof was submitted that bill had processed successfully. Please reviewed the information enclosed and submit payment to Downtown Performance Medical Center as soon as possible."

Amount in Dispute: \$3,667.83

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The bottom line is that these bills were never routed to Corvel for processing as Federal Insurance for Chubb & Sons (PayorID Wx751). Consequently, the Requestor must hold their billing agent/clearinghouse responsible for not submitting the bills to the correct Payor. Corvel processed the paper bills in accordance with Rule §133.20(b) -absent of any other receipt of the bills in any other manor. In addition to the timely filing denial, what the Requestor does not address is that there was also a denial for extent of injury (reason code 219)."

Response Submitted by: Downs & Stafford, PC.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Rows include service dates from February 2, 2015 to February 24, 2015 with various CPT codes and physical therapy services.

February 24 2015	CPT Code 97110-GP-59 (X3) Physical Therapy	\$214.08	\$0.00
March 2, 2015	CPT Code 99213 Office Visit	\$165.10	\$0.00
March 3, 2015 March 5, 2015 March 10, 2015 March 12, 2015 March 20, 2015 March 23, 2015 March 27, 2015	CPT Code 97110-GP-59 (X4) Physical Therapy	\$285.44	\$169.56
	CPT Code 97110-GP-59 (X3) Physical Therapy	\$214.08	\$130.28
	CPT Code 97110-GP-59 (X5) Physical Therapy	\$356.80	\$208.84
	CPT Code 97110-GP-59 (X5) Physical Therapy	\$365.80	\$208.84
	CPT Code 97110-GP-59 (X5) Physical Therapy	\$356.80	\$208.84
	CPT Code 97110-GP-59 (X4) Physical Therapy	\$285.44	\$169.56
	CPT Code 97110-GP-59 (X2) Physical Therapy	\$142.72	\$91.00
	March 3, 2015 March 5, 2015 March 10, 2015 March 12, 2015 March 20, 2015 March 23, 2015 March 27, 2015	CPT Code 97140-GP Physical Therapy	\$67.50 X 7 = \$472.50
March 30, 2015	CPT Code 99080-73 Work Status Report	\$15.00	\$0.00
March 30, 2015	CPT Code 99213 Office Visit	\$165.10	\$0.00
April 30, 2015	CPT Code 99213 Office Visit	\$165.10	\$0.00
April 30, 2015	CPT Code 99080-73 Work Status Report	\$15.00	\$0.00
TOTAL		\$3,667.83	\$1,442.21

### ***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 §133.305 sets forth general provisions regarding dispute of medical bills.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
3. 28 Texas Administrative Code §141.1 sets out the procedures for requesting and setting a Benefit Review Conference.
4. Texas Labor Code §408.027, effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
5. 28 Texas Administrative Code §133.20, effective January 29, 2009, 34 *Texas Register* 430, sets out the procedure for healthcare providers submitting medical bills.
6. 28 Texas Administrative Code §102.4(h), effective May 1, 2005, sets out rules to determine when written documentation was sent.
7. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets the reimbursement guidelines for professional services.
8. The services in dispute were reduced / denied by the respondent with the following reason codes:
  - 29-The time limit for filing claim/bill has expired.

- B20-SVc partially/fully furnished by another provider.
- 219-Based on extent of injury.
- 73-Work status report.
- B5-Pymnt adj/program guidelines not met or exceeded.
- R16-Procedure code billing restricted/once per claim.
- GP-Service delivered under OP PT care plan.
- 246-This is non-payable code is for required reporting.
- R25-Procedure billing restricted/see state regulations.
- CM-At least 80% < 100% impaired/limited/restricted.
- CI- At least 1% but < 20% impaired/limited/restricted.
- 59-Disting procedural service.

### **Issues**

1. Does an extent of injury issue exist?
2. Did the requestor support position that the disputed bills were submitted timely?
3. Is the requestor entitled to reimbursement for physical therapy services rendered from March 4, 2015 through March 27, 2015?

### **Findings**

1. According to the explanation of benefits, the respondent denied reimbursement for the services rendered on February 2, and March 2, 2015 based upon reason code “219-Based on extent of injury.”

**Unresolved extent-of-injury dispute:** The medical fee dispute referenced above contains unresolved issues of extent-of-injury for the same service(s) for which there is a medical fee dispute. The insurance carrier notified the requestor of such issues in its explanation of benefits (EOB) response(s) during the medical billing process.

**Dispute resolution sequence:** 28 Texas Administrative Code §133.305(b) requires that extent-of-injury disputes be resolved prior to the submission of a medical fee dispute for the same services. 28 Texas Administrative Code §133.307(f)(3)(C ) provides for dismissal of a medical fee dispute if the request for the medical fee dispute contains an unresolved extent of injury dispute for the claim. 28 Texas Administrative Code § 133.307( c)(2)(K) provides that a request for a medical fee dispute must contain a copy of each EOB related to the dispute.

**Extent-of-injury dispute process:** The Division hereby notifies Houston Medical Group that the appropriate process to resolve the issue(s) of extent of injury, including disputes or disagreements among the parties over whether the medical services in dispute were related to the compensable injury, may be found in Chapter 410 of the Texas Labor Code, and 28 Texas Administrative Code §141.1.

**Dismissal provisions:** 28 Texas Administrative Code § 133.307(f)(3) provides that a dismissal is not a final decision by the Texas Department of Insurance, Division of Workers’ Compensation (“Division”). The medical fee dispute may be submitted for review as a new dispute that is subject to the requirements of 28 Texas Administrative Code § 133.307. 28 Texas Administrative Code § 133.307( c)(1)(B) provides that a request for medical fee dispute resolution may be filed not later than 60 days after a requestor has received the final decision, inclusive of all appeals, on the extent-of-injury dispute.

2. According to the explanation of benefits, the respondent denied reimbursement for the services rendered on February 3, February 24, March 30 and April 30, 2015 based upon reason code “29-The time limit for filing claim/bill has expired.”

Texas Labor Code §408.027(a) states, “A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment.”

28 Texas Administrative Code §102.4(h), states, “Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written

communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.”

The Division reviewed the submitted reports from Office Ally and finds that the report does not support the bills were sent to the carrier within the 95 day deadline to submit the bills to the respondent per Texas Labor Code §408.027(a); therefore, the respondent’s denial is supported and reimbursement is not recommended.

3. A review of the submitted documentation finds that neither party to the dispute submitted any explanation of benefits for dates of service March 3, March 5, March 10, March 12, March 20, March 23 and March 27, 2015; therefore, these disputed services will be reviewed per the Division’s fee guideline.

28 Texas Administrative Code §134.203(a)(5) states “Medicare payment policies” when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare.”

28 Texas Administrative Code §134.203(c)(1)(2), which 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 \$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).

CMS published Medical Learning Network (MLN) Matters, effective January 1, 2011 which states in part “Many therapy services are time-based codes, i.e., multiple units may be billed for a single procedure. The Centers for Medicare & Medicaid Services (CMS) is applying a MPPR to the practice expense payment when more than one unit or procedure is provided to the same patient on the same day, i.e., the MPPR applies to multiple units as well as multiple procedures. Full payment is made for the unit or procedure with the highest PE payment. For subsequent units and procedures, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment for the PE for services furnished in office settings and other non-institutional settings and at 75 percent payment for the PE services furnished in institutional settings.” The multiple procedure rule discounting applies to the disputed service.

The 2015 DWC conversion factor for this service 56.2.

The Medicare Conversion Factor is 35.7547

Review of Box 32 on the CMS-1500 the services were rendered in zip code 77004, which is located in Houston, Texas. Therefore, the Medicare participating amount will be based on the reimbursement for “Houston, Texas.”

To determine the MAR the above formula and multiple procedure rule (MPR) discounting was applied.

CODE	No. of Units	Medicare Participating Amount	MAR	IC PAID	Additional Reimbursement Due
97110-GP-59	28	\$32.90	\$1,186.92	\$0.00	\$1,186.92
97140-GP	7	\$30.40	\$255.29	\$0.00	\$255.29

**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 \$1,442.21.

**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 \$1,442.21 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this Order.

**Authorized Signature**

		04/15/2016
Signature	Medical Fee Dispute Resolution Officer	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.**