



# 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**

PHYSICIANS SURGICAL CENTER

**Respondent Name**

INSURANCE CO OF THE STATE OF PA

**MFDR Tracking Number**

M4-16-2565-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

APRIL 25, 2016

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "we are requesting your help in obtaining the payment we are owed and help in educating Broadspire in how to correctly process Texas A.S.C. claims as we have sent many complaints to TDI on this carrier for failure to comply with the Texas guidelines."

**Amount in Dispute:** \$2,241.24

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "We have reconsidered the bills and the carrier maintains the denial."

**Response Submitted By:** Broadspire

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 2, 2015	Ambulatory Surgical Care for HCPCS Code L8699 (X2) plus Interest	\$2,241.24	\$1,572.45

### 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.
- 28 Texas Administrative Code §134.402, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
- Texas Labor Code 413.011(b) provides for additions or exceptions to the Medicare policies.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 790-This charge was reimbursed in accordance to the Texas medical fee guideline.
  - 885-Review of this code has resulted in an adjusted reimbursement.
  - P12-Workers' compensation jurisdictional fee schedule adjustment.

- C19-Charges for surgical implants are reviewed separately by Foresight Medical.
- D00-Based on further review, no additional allowance is warranted.
- P13-Payment reduced or denied based on workers' compensation jurisdictional regulations or payment policies, use only if no other code is applicable.
- W3-In accordance with TDI-DWC rule 134.804, this bill has been identified as a request for reconsideration or appeal.

## Issues

Is the requestor entitled to additional reimbursement for HCPCS code L8699 (X2)?

## Findings

On the disputed date of service, the requestor billed CPT codes 29827, 23430, 29826, and L8699 (X2). The respondents paid for codes 29827, 23430, 29826 and are not in dispute. The respondent paid \$2,013.55 for code L8699 based upon the fee guideline.

HCPCS code L8699 is defined as "Prosthetic implant, not otherwise specified."

28 Texas Administrative Code §134.402(f)(1)(B)(i)(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."

The Division reviewed the submitted medical bill and finds that the requestor did request separate reimbursement for the implantables; therefore, the disputed services were applicable to the reimbursement methodology outlined in 28 Texas Administrative Code §134.402(f)(1)(B)(i)(ii)."

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."

Section 413.011(b) of the Texas Labor Code states "In determining the appropriate fees, the commissioner shall also develop one or more conversion factors or other payment adjustment factors taking into account economic indicators in health care and the requirements of Subsection (d).The commissioner shall also provide for reasonable fees for the evaluation and management of care as required by Section 408.025(c)and commissioner rules. This section does not adopt the Medicare fee schedule, and the commissioner may not adopt conversion factors or other payment adjustment factors based solely on those factors as developed by the federal Centers for Medicare and Medicaid Services."

28 Texas Administrative Code §134.402's preamble states "The Division is adopting minimal modifications to Medicare's reimbursement methodology to reflect use of separate reimbursement for surgically implanted devices in non-device intensive procedures to ensure injured employees have access to care, including surgery where surgically implanted devices are medically necessary."

According to *Addendum BB, Final ASC Covered Ancillary Services Integral to Covered Surgical Procedures for CY 2015 (Including Ancillary Services for Which Payment is Packaged)*, HCPCS Code L8699 has a payment indicator of "N1".

Addendum DD1, Final ASC Payment Indicators for CY 2015, defines payment indicator o “N1” as “Packaged service/item; no separate payment made.”

Even though HCPCS code L8699 has a payment indicator of N1, Section 413.011(b) of the Texas Labor Code, 28 Texas Administrative Code §134.402(d), and it’s preamble, make the exception to Medicare’s policies and allow separate reimbursement for implantables in non-device intensive procedures.

A review of the submitted documentation finds that the requestor submitted copies of invoices from Arthrex, and Depuy Mitek that lists implantables and non-implantables used in the surgery. The requestor does not document what implants are being billed under code L8699; therefore, the Division reviewed the OR Implant Record list and Invoice and found a total cost of \$3,260.00 for the listed implantables.

Per 28 Texas Administrative Code §134.402(f)(1)(B)(i) the total due for implantables is \$3,260.00 X 10% = \$3,586.00. The respondent paid \$2,013.55. The difference between amount paid and due is \$1,572.45.

### **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 \$1,572.45.

### ***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 \$1,572.45 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

05/18/2016

### ***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.**