



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

GABRIEL JASSO, PHD

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-19-2105-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

DECEMBER 11, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The carrier has not paid this claim in accordance with TDI-DWC Rule 133 and 134."

Amount in Dispute: \$966.65

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "No additional payment is due code 96101 based on a mutually exclusive edit from NCCI."

Response Submitted by: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 10, 2018	CPT Code 90791(X1)	\$0.00	\$0.00
	CPT Code 96101 (X15)	\$966.65	\$966.35
TOTAL		\$966.65	\$966.35

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

- 28 Texas Administrative Code §133.307, effective May 31, 2012, sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §127.10, effective September 1, 2012, sets out the Designated Doctor procedures and examinations.
- 28 Texas Administrative Code §134.203, effective March 1, 2008, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers' compensation system.

4. The services in dispute were reduced/denied by the respondent with the following claim adjustment reason codes:
 - CAC-97-The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
 - 641-The medically Unlikely Edits (MUE) from CMS has been applied to this procedure code.

Issues

1. What is the applicable fee guideline for professional services?
2. Is the benefit of CPT code 96101(X15) included in the allowance of another service rendered on the disputed date of service?
3. Does Medicare's Medically Unlikely Edits (MUEs) apply in this case?
4. Is the requestor entitled to additional reimbursement for CPT code 96101(X15)?

Findings

1. The fee guidelines for disputed services are found in 28 Texas Administrative Code §134.203.
2. Based upon the submitted explanation of benefits, the respondent reduced payment of code 96101(X15) based upon reason code "CAC-97-The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated."

On the disputed date of service, the requestor billed CPT code 90791 and 96101(X15).

The division reviewed the following statute to determine if the respondent's reduction of payment is supported:

- 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 (b)(1) states, "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

Per CCI edits, the benefit of CPT code 96101 is not included in the benefit of code 90791; therefore, the respondent's denial/reduction of payment based upon CAC-97 is not supported.

3. According to the submitted explanation of benefits, the respondent paid \$1,104.40 for CPT code 96101(X15) based upon "641-TX The medically unlikely edits (MUE) from CMS has been applied to this procedure code." The requestor noted in the Psychological Examination report that the disputed testing was related to a referral from Designated Doctor. The requestor contends that additional reimbursement of \$966.65 is due for CPT code 96101(X15)

The division reviewed the following statute to determine if the respondent's reduction of payment is supported:

- 28 Texas Administrative Code §127.10(c) states, "The designated doctor shall perform additional testing when necessary to resolve the issue in question. The designated doctor shall also refer an injured employee to other health care providers when the referral is necessary to resolve the issue in question and the designated doctor is not qualified to fully resolve the issue in question. Any additional testing or referral required for the evaluation is not subject to preauthorization requirements nor shall those services be denied retrospectively based on medical necessity, extent of injury, or compensability in accordance with the Labor Code §408.027 and §413.014, Insurance Code Chapter 1305, or Chapters 10, 19, 133, or 134 of this title (relating to Workers' Compensation Health Care Networks, Agents' Licensing, General Medical Provisions, and Benefits--Guidelines for Medical Services, Charges, and Payments, respectively) but is subject to the requirements of §180.24 of this title (relating to Financial Disclosure)."
- 28 Texas Administrative Code §134.203(a)(7) states, "Specific provisions contained in the Texas Labor Code or the Texas Department of Insurance, Division of Workers' Compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by CMS in administering the Medicare program."

The disputed testing was related to a referral from a Designated Doctor. 28 Texas Administrative Code §127.10(c) provides for Designated Doctors to perform or refer the injured employee to other health care providers to “perform additional testing when necessary to resolve the issue in question.” The division finds the respondent’s reduction of payment is based upon limits of treatment/testing outlined in CMS’s MUEs. These MUEs were not adopted by the division in 28 Texas Administrative Code §134.203; therefore, they do not apply in this case.

4. CPT code 96101 is defined as “Psychological testing (includes psychodiagnostic assessment of emotionality, intellectual abilities, personality and psychopathology, eg, MMPI, Rorschach, WAIS), per hour of the psychologist's or physician's time, both face-to-face time administering tests to the patient and time interpreting these test results and preparing the report.”

A review of the submitted billing and medical records finds that the requestor billed for fifteen units of code 96101.

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 2018 DWC conversion factor for this service 58.31.

The Medicare Conversion Factor is 35.9996.

Review of Box 32 on the CMS-1500 the services were rendered in zip code 77042 which is located in Houston, Texas; therefore, the Medicare carrier locality is “Houston, Texas”.

The Medicare participating amount for code 96101 in Houston, TX is \$85.23.

Using the above formula, the Division finds the MAR is $\$138.05 \times 15 = \$2,070.75$. The respondent paid \$1,104.40. The division finds the requestor is due the difference between the MAR and amount paid of \$966.35.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$966.35.

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 \$966.35 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

3/21/2019

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.