



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

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

ANDRE HWANG, DC

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-19-2116-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

DECEMBER 11, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The attached date of service was not paid in full. Services were reduced due to 'documentation does not support the need for more than 30 minutes of time'. Please see the attached documentation supporting the time of service billed...Not to mention, Per Rule 134.600, the carrier shall not withdraw preauthorization once issued. The preauthorization is attached."

Amount in Dispute: \$701.04

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "One year from disputed date 12/7/17 is 12/7/18. The TDI/DWC date stamp lists the received date as 12/11/18 on the requestor's DWC-60 packet., a date greater than one year from 12/7/17. The requestor has waived its right to DWC MDR. No additional payment is owed for date 1/18/18."

Response Submitted by: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 7, 2017 January 18, 2018	CPT Code 97750-GP	\$701.04	\$251.90

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, effective May 31, 2012, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets out the reimbursement guidelines for professional services.

3. 28 Texas Administrative Code §19.2009, effective February 20, 2013, sets out the guidelines for the utilization review process.
4. The services in dispute were reduced / denied by the respondent with the following reason code:
 - CAC-P12-Workers' compensation jurisdictional fee schedule adjustment.
 - CAC-16-Claim service lacks information or has submission/billing error(s) which is needed for adjudication.
 - 420-Supplemental payment.
 - 863-Documentation does not support the need for more than 30 minutes of time.
 - 891-No additional payment after reconsideration.
 - CAC-W3, 350-In accordance with TDI-DWC rule 134.804, this bill has been identified as a request for reconsideration or appeal.
 - CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issue

1. Did the requestor waive the right to medical fee dispute resolution?
2. Does a medical necessity issue exist?
3. Does the documentation support CPT code 97750-GP(X8) rendered on January 18, 2018?
4. Is the requestor entitled to additional reimbursement?

Findings

1. 28 Texas Administrative Code §133.307(c)(1) states: "Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute." The date of service in dispute is December 7, 2017. The request for medical dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) section on December 11, 2018. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307(c)(1)(B). The Division concludes that the requestor has failed to timely file this dispute with the Division's MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for services rendered on December 7, 2017.
2. According to the submitted explanation of benefits, the respondent denied CPT code 97750-GP rendered on January 18, 2018 based upon "863-Documentation does not support the need for more than 30 minutes of time."

28 Texas Administrative Code §19.2009(b) outlines the required notice elements for an adverse determination by the URA.

A review of the submitted documentation finds no documentation to support that the insurance carrier performed a utilization review for the disputed testing or that the requestor was given an opportunity to discuss the testing prior to the insurance carrier's denial based on medical necessity. The division finds the insurance carrier did not support compliance with 28 Texas Administrative Code §19.2009(b) for denial of payment for testing based upon reason code "863."

3. The applicable fee guideline for physical performance test is 28 Texas Administrative Code §134.203.

On the disputed dates of service, the requestor billed CPT code 97750-GP (X8).

According to the submitted explanation of benefits the respondent paid \$127.36 for CPT code 97750-GP based upon "CAC-16-Claim service lacks information or has submission/billing error(s) which is needed for adjudication," and "P12-Workers' compensation jurisdictional fee schedule adjustment."

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."

CPT code 97750 is defined as "Physical performance test or measurement (eg, musculoskeletal, functional capacity), with written report, each 15 minutes." CPT code 97750 requires direct one-on-one patient contact.

A review of the PPE Summary Report supports the evaluation performed by Dr. Hwang; therefore, the respondent's denial based upon a lack of documentation is not supported.

4. 28 Texas Administrative Code §134.203(c)(1) 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."

28 Texas Administrative Code §134.203(c)(2) states "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."

On the disputed dates of service, the requestor billed CPT code 97550-GP (X8). 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 Division conversion factor for 2018 is \$58.31.

The Medicare conversion factor for 2018 is 35.9996.

Review of Box 32 on the CMS-1500 finds that the services were rendered in zip code 75043 which is located in Garland, Texas; therefore, the Medicare locality is "Dallas, Texas."

The Medicare participating amount for CPT code 97750 in Dallas, Texas is \$38.85.

Using the above formula, the MAR is \$61.79 per unit. The requestor billed for 8 units; therefore, \$62.93 X 8 X multiple procedure discounting = \$379.26. The respondent paid \$127.36. The difference between MAR and amount paid is \$251.90; this amount is recommended for reimbursement.

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 \$251.90.

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 \$251.90 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

2/21/2019

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.