



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 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Patient Care Injury Clinic

Respondent Name

Zurich American Insurance Co

MFDR Tracking Number

M4-19-2383-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

December 27, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "We submitted our bills and proper clinical documentation in a timely fashion. We feel that our facility should be paid according to the workers compensation fee schedule guidelines."

Amount in Dispute: \$942.26

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: Submitted documentation does not include a position statement from the respondent. Accordingly, this decision is based on the information available at the time of review.

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|--|------------------------------|-------------------|------------|
| December 14, 2017 through April 20, 2018 | 97110 -GP, 97010, 97140 – GP | \$942.26 | \$367.14 |

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 §134.203 sets out the reimbursement guidelines for professional medical services.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 119 – Benefit maximum for this time period or occurrence has been reached
 - 97 – Payment adjusted because the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated
 - 168 – Billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services

- P12 – Workers’ compensation jurisdictional fee schedule adjustment

Issues

1. Did the insurance carrier respond to the medical fee dispute?
2. Are the insurance carrier’s reasons for denial or reduction of payment supported?
3. What is Medicare payment policy?
4. What rule is applicable to reimbursement guidelines?

Findings

1. The Austin carrier representative for Zurich American Insurance Co. is Flahive Ogden & Latson. The carrier representative acknowledged receipt of the copy of this medical fee dispute on January 3, 2019.

28 Texas Administrative Code §133.307 states, in relevant part:

- (d) Responses. Responses to a request for MFDR shall be legible and submitted to the division and to the requestor in the form and manner prescribed by the division.
 1. Timeliness. The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile **within 14 calendar days after the date the respondent received the copy of the requestor's dispute** [emphasis added]. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

Review of the documentation finds that no response has been received on behalf of the insurance carrier from the carrier representative to date. The division concludes that the insurance carrier failed to respond within the timeframe required by §133.307(d)(1). The division will base its decision on the information available.

2. The requestor is seeking additional reimbursement in the amount of \$942.26 for physical therapy services rendered From December 14, 2017 through April 20, 2018. The carrier denied/reduced the services in dispute as, 119 – “Benefit maximum for this time period or occurrence has been reached” and 168 – “Billed charge is greater than maximum unit value or daily maximum allowance for physical therapy/physical medicine services.”

28 Texas Administrative Code §134.203 (a) (5) states in pertinent part,

"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.

Review of the Medicare Claims Processing Manual, <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Internet-Only-Manuals-IOMs.html> , Chapter 5 - Part B Outpatient Rehabilitation and CORF/OPT Services 20.2 – D, which states in pertinent part,

Reporting of Service Units With HCPCS, D. Specific Limits for HCPCS. The Deficit Reduction Act of 2005, section 5107 requires the implementation of clinically appropriate code edits to eliminate improper payments for outpatient therapy services. The following codes may be billed, when covered, only at or below the number of units indicated on the chart per treatment day.

However, the codes in dispute 97110 and 97140 are not listed on this chart. The carrier’s denial is not supported for these codes.

The code 97010 for date of service December 14, 2017 was denied as 97 – “Payment adjusted because the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.” Review of the status of this code is “B” bundled code. The carrier’s denial is supported.

The fee calculation is discussed in the following paragraph.

3. 28 TAC §134.203 (b) (1) states in pertinent part,

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;

The Centers for Medicare and Medicaid Claims Processing Manual, Chapter 5, states in applicable section 10.7,

Medicare applies an MPPR to the PE 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. Many therapy services are time-based codes, i.e., multiple units may be billed for a single procedure. The MPPR applies to all therapy services furnished to a patient on the same day, regardless of whether the services are provided in one therapy discipline or multiple disciplines, for example, physical therapy, occupational therapy, or speech-language pathology.

Full payment is made for the unit or procedure with the highest PE payment.

*For subsequent units and procedures with dates of service on or after April 1, 2013, furnished to the same patient on the same day, **full payment is made for work and malpractice and 50 percent payment is made for the PE for services** submitted on either professional or institutional claims.*

The Medicare payment policy is used in the calculation of the maximum allowable reimbursement in the next paragraph. To apply the reduction appropriately, all services provided on the date of service in dispute will be calculated.

4. 28 TAC §134.203 (c) states in pertinent part,

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 (date of service yearly conversion factor).

The Medicare Multiple Procedure Payment Reduction file is found at:

<https://www.cms.gov/Medicare/Billing/TherapyServices/index.html>

The MAR calculation is as follows:

- Procedure code 97110 billed December 17, 2017 for four units has a PE of 0.45 not the highest for this date and will be paid at the reduced rate of \$25.30. $57.5/35.8887 \times \$25.30 \times 4 = \162.14
- Procedure code 97140 billed December 17, 2017 for two units has a PE of 0.41 not the highest for this date and will be paid at the reduced rate of \$23.50. $57.5/35.8887 \times \$23.50 \times 2 = \75.30
- Procedure code G0283 billed December 17, 2017 has a PE of 0.2 the highest for this date and will be paid at the full allowable of \$14.17. $57.5/35.8887 \times \$14.17 = \22.70

The total allowable for this date of service is \$260.14. The carrier paid \$236.75. **The balance of \$23.39 is due to the requestor**

- Procedure code 97110 billed January 29, 2018 for four units has a PE of 0.4 the highest for this date. The first unit will be paid at the full allowable of \$31.77. The second, third and fourth units will be paid at the reduced rate of \$24.48. $58.31/35.9996 \times \$31.77 = \51.46 . $58.31/35.9996 \times \$24.48 \times 3 = \118.95 . $\$51.46 + \$118.95 = \$170.41$
- Procedure code 97140 billed January 29, 2018 for two units has a PE of 0.35 not the highest for this date and will be paid at the reduced rate of \$22.50. $58.31/35.9996 \times \$22.50 \times 2 = \72.89
- Procedure code 97112 billed January 29, 2018 has a PE of 0.47 not the highest for this date and will be paid at the reduced rate of \$27.60. $58.31/35.9996 \times \$27.60 = \44.70

- Procedure code billed January 29, 2018 has a PE of 0.23 not the highest for this date and will be paid at the reduced rate of \$11.14. $58.31/35.9996 \times \$11.14 = \18.53
- Procedure code 97110 billed January 30, 2018 for four units has a PE of 0.4 the highest for this date. The first unit will be paid at the full allowable of \$31.77. The second, third and fourth units will be paid at the reduced rate of \$24.48. $58.31/35.9996 \times \$31.77 = \51.46 . $58.31/35.9996 \times \$24.48 \times 3 = \118.95 . $\$51.46 + \$118.95 = \$170.41$
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The total allowable for these dates of service is \$613.06 the carrier paid \$475.56. **The remaining balance of \$137.50 is due to the requestor.**

- Procedure code 97110 billed April 13, 2018 for four units has a PE of 0.4 the highest for this date. The first unit will be paid at the full allowable of \$31.77. The second, third and fourth units will be paid at the reduced rate of \$24.48. $58.31/35.9996 \times \$31.77 = \51.46 . $58.31/35.9996 \times \$24.48 \times 3 = \118.95 . $\$51.46 + \$118.95 = \$170.41$
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The total allowable for this date of service is \$306.53. The carrier paid \$237.78. **The remaining balance of \$68.75 is due to the requestor.**

- Procedure code 97110 billed April 18, 2018 for four units has a PE of 0.4 the highest for this date. The first unit will be paid at the full allowable of \$31.77. The second, third and fourth units will be paid at the reduced rate of \$24.48. $58.31/35.9996 \times \$31.77 = \51.46 . $58.31/35.9996 \times \$24.48 \times 3 = \118.95 . $\$51.46 + \$118.95 = \$170.41$
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The total allowable for this date of service is \$306.53. The carrier paid \$237.78. **The remaining balance of \$68.75 is due to the requestor.**

- Procedure code 97110 billed April 20, 2018 for four units has a PE of 0.4 the highest for this date. The first unit will be paid at the full allowable of \$31.77. The second, third and fourth units will be paid at the reduced rate of \$24.48. $58.31/35.9996 \times \$31.77 = \51.46 . $58.31/35.9996 \times \$24.48 \times 3 = \118.95 . $\$51.46 + \$118.95 = \$170.41$
- Procedure code 97140 billed April 20, 2018 for two units has a PE of 0.35 not the highest for this date and will be paid at the reduced rate of \$22.50. $58.31/35.9996 \times \$22.50 \times 2 = \72.89

- Procedure code 97112 billed April 20, 2018 has a PE of 0.47 not the highest for this date and will be paid at the reduced rate of \$27.60. $58.31/35.9996 \times \$27.60 = \44.70
- Procedure code billed April 20, 2018 has a PE of 0.23 not the highest for this date and will be paid at the reduced rate of \$11.14. $58.31/35.9996 \times \$11.14 = \18.53

The total allowable for this date of service is \$306.53. The carrier paid \$237.78. **The remaining balance of \$68.75 is due to the requestor.**

The total allowed amount for the services in dispute is \$1,792.79. The carrier paid \$1,425.65. The remaining balance of \$367.14 is due to the requestor.

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 \$367.14.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$367.14, 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 | February 15, 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 Rule §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 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. **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.