



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

FONDREN ORTHOPEDIC GROUP, LLP

Respondent Name

TOKIO MARINE AMERICA INSURANCE

MFDR Tracking Number

M4-19-2823-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

JANUARY 22, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "According to the American Academy of Orthopaedic Surgeons Complete Global Service Data for Orthopaedic Surgery (AAOS), procedure code 29806/LT is not part of the global service package of 29827...Therefore, we find procedure code 29806 subject to payment."

Amount in Dispute: \$2,265.50

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The specific line item in dispute was billed at \$3,510.00 and an allowance of \$0.00 was recommended. The Explanation of Review (see attached) detailed the reason for no allowance. "

Response Submitted by: Tokio Marine America

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: July 13, 2018, CPT Code 29806-59-LT, \$2,265.50, \$0.00

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 a medical fee dispute.
2. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. The services in dispute were reduced/denied by the respondent with the following claim adjustment reason codes:
- P12-Workers' compensation jurisdictional fee schedule adjustment.
- 1014-The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct, therefore, no additional allowance appears to be warranted.

- W3-Additional payment made on appeal/reconsideration.
- 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 285-Please refer to the note above for a detailed explanation of the reduction.
- NOTE: In order to provide a sufficiently broad listing of descriptive terms and identifying CPT codes, certain services or procedures are listed which would not reasonably be performed at the same session by the same provider on the same beneficiary. In the case of CPT code 29827 (the column one code) and CPT code 29806 (the column two code), it would be unreasonable to expect these services to be performed at a single patient encounter and, therefore, these CPT codes have been paired together as edits....CMS considers the shoulder joint to be a single anatomic structure.

## Issues

Is the requestor entitled to reimbursement for CPT code 29806-59-LT?

## Findings

1. The fee guideline for Professional Care services is found in 28 Texas Administrative Code §134.203.
2. The issue in dispute is whether the requestor is due reimbursement of \$2,265.50 for CPT code 29806-59-LT.

According to the explanation of benefits, the respondent denied reimbursement for code 29806-59-LT based upon reason codes “285-Please refer to the note above for a detailed explanation of the reduction”, and NOTE: In order to provide a sufficiently broad listing of descriptive terms and identifying CPT codes, certain services or procedures are listed which would not reasonably be performed at the same session by the same provider on the same beneficiary. In the case of CPT code 29827 (the column one code) and CPT code 29806 (the column two code), it would be unreasonable to expect these services to be performed at a single patient encounter and, therefore, these CPT codes have been paired together as edits....CMS considers the shoulder joint to be a single anatomic structure.”

On the disputed date of service, the requestor billed CPT codes 29806-59-LT, 29827-LT and 29826-LT.

28 Texas Administrative Code §134.203(b) 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...”

28 Texas Administrative Code §134.203(b)(1) “For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: 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, CPT code 29806 is a component of CPT code 29827; however, a modifier is allowed to differentiate the service. A review of the requestor's billing finds that the requestor appended modifier “59-Distinct Procedural Service” to CPT code 29806.

Modifier 59 is defined as “Under certain circumstances, it may be necessary to indicate that a procedure or service was distinct or independent from other non-E/M services performed on the same day. Modifier 59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances. Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual. However, when another already established modifier is appropriate it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used.”

A review of the submitted Operative Report finds the requestor performed left shoulder arthroscopic surgery. The report does not support “a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual”. The division finds the respondent's denial of payment is supported because the requestor did not support the billing with modifier 59.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

**Authorized Signature**

|           |  |                   |
|-----------|--|-------------------|
| Signature | Medical Fee Dispute Resolution Officer | 2/15/2019<br>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, 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.**