



# 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**

Doctor's Hospital at Renaissance

**Respondent Name**

Indemnity Insurance Co of North America

**MFDR Tracking Number**

M4-19-3469-01

**Carrier's Austin Representative**

Box Number 15

**MFDR Date Received**

March 18, 2019

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "According to TWCC guidelines, Rule §134.493 states that the reimbursement calculation used for establishing the MAR shall be by applying the Medicare facility specific amount."

**Amount in Dispute:** \$1,114.48

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "We are attaching a copy of the carrier's EORs dated January 18, 2019 and February 15, 2019. The provider billed \$3,612.04. The carrier's EORs recommended reimbursement of \$1,309.20. The provider is not entitled to any additional reimbursement."

**Response Submitted by:** Flahive, Ogden & Latson

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 4 – 20, 2018	Outpatient Therapy Services	\$1,111.48	\$0.00

#### 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 §134.403 sets out the reimbursement guidelines for outpatient hospital services.
- 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:

- P12 – Workers’ compensation jurisdictional fee schedule adjustment
- 170 – Reimbursement is based on the outpatient/inpatient fee schedule

### Issues

1. Is the carrier’s reduction and denial of payment supported?
2. Is the requestor entitled to additional reimbursement?

### Findings

1. The requestor is seeking additional reimbursement for outpatient therapy services performed from December 4 – 20, 2018. The insurance carrier reduced the billed charges based on the workers’ compensation fee schedule.”

28 TAC §134.403 (d) (f) and (h) determine the reimbursement of the remaining services in dispute and states,

(d) For coding, billing, reporting, and reimbursement of health care covered in this section, Texas workers' compensation system participants shall apply Medicare payment policies in effect on the date a service is provided

(f) The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register.

(h) For medical services provided in an outpatient acute care hospital, but not addressed in the Medicare payment policies as outlined in subsections (f)(1) or (f)(2) of this section, and for which Medicare reimburses using other Medicare fee schedules, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided.

The OPPS reimbursement formula factors are found at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/Addendum-A-and-Addendum-B-Updates.html>. The specific factor is the Status Indicators. The status indicator for each of the HCPCS code listed on the DWC060 have an “A” status indicator which is defined as, “Not paid under OPPS. Paid by MACs under a fee schedule or payment system other than OPPS.”

Based on the requirements of 28 TAC §134.403 (h) the applicable Division fee guideline is found in 28 TAC §134.203 (c) (1) which 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 (date of service yearly conversion factor).

The requirements of 28 TAC §134.403 (d) requires the application of the Medicare Multiple Procedure Payment Reduction (MPPR) found in the CMS Claims Processing Manual 100-04, Chapter 5, section 10.7 at [www.cms.gov](http://www.cms.gov). The MPPR policy was used in the calculation of the maximum allowable reimbursement shown below. The MAR is calculated by the DWC Conversion Factor of 58.31/Medicare Conversion Factor 35.9996 multiplied by the Medicare allowable. The calculation is as follows:

- Procedure code 97530 billed December 4, 2018 has a PE of 0.69 not the highest for this date and will be paid at the reduced rate of \$28.06.  $58.31/35.9996 \times \$28.06 = \$45.45$
- Procedure code 97110 billed December 4, 2018 for two units has a PE of 0.4 the highest for this date. The first unit will be paid at the full allowable of \$30.28. The second unit at \$23.53.  $58.31/35.9996 \times \$30.28 = \$49.05$ .  $58.31/35.9996 \times \$23.53 = \$38.11$ .  $\$49.05 + \$23.53 = \$72.58$

- Procedure code 97112 billed December 4, 2018 had a PE of 0.47 not the highest for this date and will be paid at the reduced allowable of \$26.51.  $58.31/35.9996 \times \$42.94$
- Procedure code 97530 billed December 6, 2018 has a PE of 0.69 not the highest for this date and will be paid at the reduced rate of \$28.06.  $58.31/35.9996 \times \$28.06 = \$45.45$
- Procedure code 97110 billed December 6, 2018 for two units has a PE of 0.4 the highest for this date. The first unit will be paid at the full allowable of \$30.28. The second unit at \$23.53.  $58.31/35.9996 \times \$30.28 = \$49.05$ .  $58.31/35.9996 \times \$23.53 = \$38.11$ .  $\$49.05 + \$23.53 = \$72.58$
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- Procedure code 97530 billed December 11, 2018 has a PE of 0.69 not the highest for this date and will be paid at the reduced rate of \$28.06.  $58.31/35.9996 \times \$28.06 = \$45.45$
- Procedure code 97110 billed December 11, 2018 for two units has a PE of 0.4 the highest for this date. The first unit will be paid at the full allowable of \$30.28. The second unit at \$23.53.  $58.31/35.9996 \times \$30.28 = \$49.05$ .  $58.31/35.9996 \times \$23.53 = \$38.11$ .  $\$49.05 + \$23.53 = \$72.58$
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- Procedure code 97530 billed December 19, 2018 has a PE of 0.69 not the highest for this date and will be paid at the reduced rate of \$28.06.  $58.31/35.9996 \times \$28.06 = \$45.45$
- Procedure code 97110 billed December 19, 2018 for two units has a PE of 0.4 the highest for this date. The first unit will be paid at the full allowable of \$30.28. The second unit at \$23.53.  $58.31/35.9996 \times \$30.28 = \$49.05$ .  $58.31/35.9996 \times \$23.53 = \$38.11$ .  $\$49.05 + \$23.53 = \$72.58$
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- Procedure code 97530 billed December 20, 2018 has a PE of 0.69 not the highest for this date and will be paid at the reduced rate of \$28.06.  $58.31/35.9996 \times \$28.06 = \$45.45$
- Procedure code 97110 billed December 20, 2018 for two units has a PE of 0.4 the highest for this date. The first unit will be paid at the full allowable of \$30.28. The second unit at \$23.53.  $58.31/35.9996 \times \$30.28 = \$49.05$ .  $58.31/35.9996 \times \$23.53 = \$38.11$ .  $\$49.05 + \$23.53 = \$72.58$
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2. The total allowable reimbursement for the services in dispute is \$965.82. The carrier paid \$1,309.20. No additional payment is recommended.

### **Conclusion**

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

**ORDER**

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the division hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
Date

April 10, 2019

**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.**