



# 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**

Texas Health Fort Worth

**Respondent Name**

Liberty Insurance Corp

**MFDR Tracking Number**

M4-19-3808-01

**Carrier's Austin Representative**

Box Number 1

**MFDR Date Received**

April 15, 2019

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "Please accept our request for Medical Fee Dispute Resolution as claim was appealed twice incorrectly for authorization when carrier originally denied claim for out of network... After speaking with the adjuster on March 8, 2019 she agreed to send the bill back for processing and have all network authorization denials overturned."

**Amount in Dispute:** \$1,543.75

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The bill has been reviewed and denial stands as the provider billed CPT 92507 and 97110 on the same DOS; payment for 92507 was issued. Denial for 97110 states: NCCI, the procedure code is denied based on standard of medical, surgical practice; procedure included in 92507."

**Response Submitted by:** Liberty Mutual

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 2 – 30, 2018	Outpatient Therapy Services	\$1,543.75	\$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**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403 sets out the reimbursement guidelines for outpatient hospital services.

3. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for professional medical services.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - X397 – Provider is not within the Liberty Health Care Network (HCN) for this customer
  - Z710 – The charge for this procedure exceeds the fee schedule allowance
  - MX70 – Per NCCI, the procedure code is denied due to misuse of column 2 code with column 1 code. Procedure included in 92507
  - B13
  - P12

### Issues

1. Did the insurance carrier maintain the network denial?
2. Is the insurance carrier's reduction of payment supported?
3. What is reimbursement under OPPTS for 96150?
4. Is the requestor entitled to additional reimbursement?

### Findings

1. The insurance carrier denied the services originally as X397 – Provider is not within the Liberty Health Care Network.” The insurance carrier did not maintain this denial as on May 1, 2019 they responded, “Additional payment has been issued as underpayment was found during review-EOB is attached for your review.” An explanation of benefits showed on April 30, 2019 an additional payment of \$317.20 was issued. As this denial was not upheld, it will not be considered in this review.
2. The requestor is seeking additional reimbursement for outpatient therapy services performed from May 2- 30, 2018. The carrier reduced the payment based on the workers compensation jurisdictional fee schedule and per the NCCI edits.

28 TAC § 134.530 (d) states in pertinent part,

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

The Medicare payment policy regarding multiple procedure payment reduction is found in the Centers for Medicare and Medicaid Claims Processing Manual, Chapter 5, which 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 health care provider billed for initial evaluation of physical therapy, occupational therapy and speech language comprehension on May 2, 2019. The highest value is assigned to Code 92523. The code will receive full reimbursement. Code 97163 and 97165 will receive the reduction.

Beginning May 14, 2018, the provider billed for four units of CPT code 97110, one unit of 97163, one unit of 97165, one unit of 92507, one unit of 92523 and one unit of 96150. Per the above Medicare payment policy, “full payment is made for the unit or procedure with the highest PE payment.” For the disputed

services on May 14, and 22, 2018, CPT code 92507 has the highest PE payment for each date of service in dispute, code 97110 was denied for NCCI edits. For dates of service May 25 and 30<sup>th</sup>, 97110 was the only service provided. Reimbursement of the first unit of 97110 will be in full and the others will have the multiple procedure payment reduction applied.

3. 28 TAC 134.530 (f) states in pertinent part, 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*. The following minimal modifications shall be applied.
  - (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
    - (A) 200 percent

The reimbursement for this service is as follows:

- Procedure code **96150** has status indicator Q3. This code is assigned APC 5822. The OPPS Addendum A rate is \$71.94, multiplied by 60% for an unadjusted labor amount of \$43.16, in turn multiplied by the facility wage index of 0.9636 for an adjusted labor amount of \$41.59. The non-labor portion is 40% of the APC rate, or \$28.78. The sum of the labor and non-labor portions is \$70.37 multiplied by 4 units is \$281.48. The Medicare facility specific amount of \$281.48 is multiplied by 200% for a MAR of **\$562.96**.

4. 28 Texas Administrative Code 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 services in dispute were provided in Fort Worth, Texas in May 2018. The formula for reimbursement is the Division of Workers Compensation Conversion Factor for 2018 divided by the Medicare Conversion Factor for 2018 multiple by the Medicare Fee amount. The Medicare Multiple Procedure Payment Reduction file is found at:

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

For CPT codes in dispute provided in Fort Worth Texas in 2018 the Medicare fee amounts are shown below.

CODE	SHORT DESCRIPTOR	FEE AMOUNT	50% REDUCTION	PRACTICE EXPENSE RVUs
97110	Therapeutic exercises	\$31.05	\$23.95	0.4
97163	Pt Eval High Complexity	\$84.96	\$64.90	1.13
97165	OT Eval Low Complexity	\$91.70	\$68.27	1.32
92507	Speech/hearing therapy	\$79.35	\$63.91	0.87
92523	Speech sound language comprehension	\$200.1	\$155.90	2.49

For dates of service May 16<sup>th</sup>, 25<sup>th</sup> and 30<sup>th</sup>, 2018 the reimbursement for the first unit of 97110 is DWC Conversion Factor 58.31 divided by the Medicare Conversion Factor 35.9996 multiple by \$31.05 = \$50.29

For dates of service May 16<sup>th</sup>, 25<sup>th</sup> and 30<sup>th</sup>, the three additional units of 97110 are reimbursable at DWC Conversion Factor 58.31 divided by the Medicare Conversion Factor 35.9996 multiplied by the reduced amount of \$23.95 = \$38.79 x 3 = \$116.38

For dates May 14<sup>th</sup> and 22<sup>nd</sup>, 2018 code 92507 is reimbursable at DWC Conversion Factor 58.31 divided by the Medicare Conversion Factor 35.9996 multiplied by the full amount of \$79.35 = \$128.53

For May 2, 2018, Code 97163 is reimbursable at DWC Conversion Factor 58.31/divided by the Medicare Conversion Factor 35.9996 multiplied by reduced amount \$64.90 = \$105.12

For dates of service May 16<sup>th</sup> and 25<sup>th</sup>, 2018, the four units of 97110 are reimbursable at DWC Conversion Factor 58.31 divided by the Medicare Conversion Factor 35.9996 multiplied by the reduced amount of \$23.95 = \$155.17

For May 2, 2018, Code 97165 is reimbursable at DWC Conversion Factor 58.31/divided by the Medicare Conversion Factor 35.9996 multiplied by reduced amount \$68.27 = \$110.58

For May 2, 2018, Code 92523 is reimbursable at DWC Conversion Factor 58.31/divided by the Medicare Conversion Factor 35.9996 multiplied \$200.10 = \$324.11

The Maximum Allowable Reimbursement (MAR) for dates of service May 2<sup>nd</sup> through 30<sup>th</sup>, is shown below.

Date of service	Submitted Code	Units	MAR per unit	Total MAR
May 14, 2018	97110	4	Per NCCI edits is bundled into 92507	\$0.00
May 22, 2018	97110	4	Per NCCI edits is bundled into 92507	\$0.00
May 25, 2018	97110	4	\$50.29 1 <sup>st</sup> unit \$116.38 2 <sup>nd</sup> – 4th	\$166.67
May 30, 2018	97110	4	\$50.29 1 <sup>st</sup> unit \$116.38 2 <sup>nd</sup> – 4th	\$166.67
May 16, 2018	97110	4	\$50.29 1 <sup>st</sup> unit \$116.38 2 <sup>nd</sup> – 4th	\$166.67
May 2, 2018	97163	1	\$105.12	\$105.12
May 25, 2018	97110	4	\$38.79 x 4	\$155.17
May 16, 2018	97110	4	\$38.79 x 4	\$155.17
May 2, 2018	97165	1	\$110.58	\$110.58
May 14, 2018	92507	1	\$128.53	\$128.53
May 22, 2018	92507	1	\$128.53	\$128.53
May 2, 2018	92523	1	\$324.11	\$324.11
		Total		\$1,607.22

The total allowable reimbursement for the services in dispute is \$2,170.18 (\$1,607.22 + \$562.96). The carrier paid \$2,170.13. 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**

		July 10, 2019
Signature	Medical Fee Dispute Resolution Officer	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.**