



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

UT Health East Texas Rehabilitation

Respondent Name

Insurance Co of the State of PA

MFDR Tracking Number

M4-19-4446-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

June 10, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This therapy bill has been underpaid."

Amount in Dispute: \$307.87

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The provider and the claimant are in the Coventry Healthcare Network. Accordingly, the provider is not eligible for Medical Fee Dispute Resolution under Division rule 133.307."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 4 – 28, 2019	Outpatient Therapy Services	\$307.87	\$307.87

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:

- P24 – (45) Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement
- P12 – Workers compensation jurisdictional fee adjustment
- 59 – Processed based on multiple or concurrent procedure rules

Issues

1. Is the carrier's reduction of payment supported?
2. What rule is applicable to reimbursement?
3. How is the MAR calculated?
4. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor is seeking additional reimbursement for outpatient therapy services performed from March 4 – 28, 2019. The insurance carrier reduced the allowed amount as "Workers' compensation jurisdictional fee schedule amount," "contractual amount" and "multiple or concurrent procedure rules." The respondent states, "The provider and the claimant are in the Coventry Healthcare Network." Although Coventry Healthcare is listed as a certified network on the Division's webpage, the carrier did not provide convincing evidence that the injured employee is enrolled in the network, nor did the carrier provide documentation to support that the requestor is contracted with Coventry.

The Division concludes that the carrier failed to support its "contractual" reduction. The multiple procedure rule is discussed below in the calculation of the workers compensation jurisdictional fee schedule.

2. The applicable Division Rule is found in 28 Texas Administrative Code 134.403. The applicable sections are listed below:

(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 Texas Administrative Code §134.403 (h) the applicable Division fee guideline is found in 28 Texas Administrative Code §134.203.

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 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 on each date of service in dispute billed for two or three units of CPT code 97110, and one unit of 97140. Per the above Medicare payment policy, “full payment is made for the unit or procedure with the highest PE payment.” For the disputed services CPT code 97110 has the highest PE payment for each date of service in dispute, so the first unit of 97110 should be paid at the full amount. Reimbursement of the services other than the first unit of 97110 will have the multiple procedure payment reduction applied.

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 Tyler, Texas in March of 2019. The formula for reimbursement is the Division of Workers Compensation Conversion Factor for 2019 divided by the Medicare Conversion Factor for 2019 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 97110 and 97140 provided in Tyler Texas in 2019 the Medicare fee amounts are shown below.

CODE	SHORT DESCRIPTOR	FEE AMOUNT	50% REDUCTION	PRACTICE EXPENSE RVUs
97110	Therapeutic exercises	\$30.31	\$23.55	0.4
97140	Manual therapy	\$27.62	\$21.70	0.35

For each of the below dates of service the reimbursement for the first unit of 97110 is DWC Conversion Factor 59.19 divided by the Medicare Conversion Factor 36.0391 multiple by \$30.31 = \$49.78

For each of the below dates of service additional units of 97110 are reimbursable at DWC Conversion Factor 59.19 divided by the Medicare Conversion Factor 36.0391 multiplied by the reduced amount of \$23.55 = \$38.68

For each of the below dates of service units of 97140 are reimbursable at DWC Conversion Factor 59.19 divided by the Medicare Conversion Factor 36.0391 multiplied by the reduced amount of \$21.70 = \$35.64

The Maximum Allowable Reimbursement (MAR) for dates of service March 4 through 28, 2019 is shown below:

Date of service	Submitted Code	Units	MAR per unit	Total MAR
March 4, 2019	97110	2	\$49.78 1 st unit \$38.68 2 nd unit	\$88.64
March 7, 2019	97110	2	\$49.78 1 st unit \$38.68 2 nd unit	\$88.64
March 12, 2019	97110	2	\$49.78 1 st unit \$38.68 2 nd unit	\$88.64
March 14, 2019	97110	2	\$49.78 1 st unit \$38.68 2 nd unit	\$88.64
March 20, 2019	97110	3	\$49.78 1 st unit \$38.68 x 2 = \$77.36 2 nd and 3 rd units	\$127.14
March 21, 2019	97110	3	\$49.78 1 st unit \$38.68 x 2 = \$77.36 2 nd and 3 rd units	\$127.14
March 26, 2019	97110	3	\$49.78 1 st unit \$38.68 x 2 = \$77.36 2 nd and 3 rd units	\$127.14
March 28, 2019	97110	2	\$49.78 1 st unit \$38.68 2 nd unit	\$88.64
March 4, 2019	97140	1	\$35.64	\$35.64
March 7, 2019	97140	1	\$35.64	\$35.64
March 12, 2019	97140	1	\$35.64	\$35.64
March 14, 2019	97140	1	\$35.64	\$35.64
March 20, 2019	97140	1	\$35.64	\$35.64
March 21, 2019	97140	1	\$35.64	\$35.64
March 26, 2019	97140	1	\$35.64	\$35.64
March 28, 2019	97140	1	\$35.64	\$35.64
		Total		\$1,109.74

The total allowable reimbursement for the services in dispute is \$1,109.74. The carrier paid \$760.00. The requestor is seeking \$307.87. This amount is recommended.

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 \$307.87.

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 \$307.87, plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this order.

Authorized Signature

		July 12, 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.