



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

NORTH TEXAS PAIN RECOVERY CENTER

Respondent Name

ARROWOOD INDEMNITY COMPANY

MFDR Tracking Number

M4-19-4458-01

Carrier's Austin Representative

Box Number 11

MFDR Date Received

June 10, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "A functional capacity evaluation is required to make these and other determinations prior to commencement of a multidisciplinary functional restoration program."

Amount in Dispute: \$270.48

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: No response was received.

SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
October 24, 2018	97750-FC	\$270.48	\$270.48

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code (TLC) §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Background

- 28 Texas Administrative Code (TAC) §133.307, effective May 31, 2012 sets out the procedures for resolving a medical fee dispute.
- 28 TAC §134.600, effective March 30, 2014, requires preauthorization for specific treatments and services.
- 28 TAC §137.100, effective January 18, 2007, sets out the use of the treatment guidelines.
- 28 TAC §134.203, effective March 1, 2008, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers' compensation system.
- 28 TAC §134.225, effective July 7, 2016, sets the reimbursement guidelines for FCEs.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 197 – The procedure or supply requires prior authorization or approval
 - P12 – Denial after reconsideration

Issue(s)

1. Did the insurance carrier respond to the medical fee dispute?
2. Does CPT Code 97750-FC require preauthorization?
3. What is the applicable fee guideline for CPT Code 97750-FC?
4. Is the requestor entitled to reimbursement for CPT Code 97750-FC?

Findings

1. The Austin carrier representative for Arrowood Indemnity Company is Cunningham Lindsey Group Ltd. Cunningham Lindsey Group Ltd acknowledged receipt of the copy of this medical fee dispute on June 19, 2019. 28 TAC §133.307(d)(1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

As of today, no response has been received from the carrier or its representative. We, therefore, base this decision on the information available as authorized under 28 TAC §133.307(d)(1).

2. The requestor seeks reimbursement in the amount of \$270.48 for CPT code 97750-FC x 8 units, rendered on October 24, 2018. The insurance carrier denied the disputed service with denial reduction code(s); "197 – The procedure or supply requires prior authorization or approval."

28 TAC §134.600(p)(12) requires preauthorization for: treatments and services that exceed or are not addressed by the commissioner's adopted treatment guidelines or protocols and are not contained in a treatment plan preauthorized by the insurance carrier. This requirement does not apply to drugs prescribed for claims under §§134.506, 134.530 or 134.540 of this title (relating to Pharmaceutical Benefits).

According to the Fitness for Duty Chapter of the Official Disability Guidelines (ODG), an FCE is a recommended treatment.

3. The applicable fee guideline for Functional Capacity Evaluations (FCEs) is found at 28 TAC §134.225.

28 TAC §134.225 states: The following applies to functional capacity evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c)(1) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a division ordered test; a maximum of two hours for an interim test; and a maximum of three hours for the discharge test, unless it is the initial test. Documentation is required.

The DWC finds that neither party submitted documentation to support that the requestor exceeded the three tests allowed by the fee guideline; therefore, the disputed FCE did not require preauthorization and reimbursement is recommended.

4. 28 TAC §134.203(c)(1) 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 \$52.83."

28 TAC §134.203(c)(2) states "The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year..."

On October 24, 2018, the requestor billed CPT code 97550-FC x 8 units. CMS published Medical Learning Network (MLN) Matters, effective January 1, 2011 states in part "Many therapy services are time-based codes, i.e., multiple units may be billed for a single procedure. The Centers for Medicare & Medicaid Services (CMS) is applying a MPPR to the practice expense 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. Full payment is made for the unit or procedure with the highest PE payment. For subsequent units and procedures, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment for the PE for services furnished in office settings and other non-institutional settings and at 75 percent payment for the PE services furnished in institutional settings." The DWC finds that the multiple procedure rule discounting applies to the disputed service.

The DWC conversion factor for 2018 is \$58.31 and the Medicare conversion factor for 2018 is 35.9996.

Review of Box 32 on the CMS-1500 finds that the services were rendered in zip code 76016, located in Arlington, Texas; therefore, the Medicare locality is "Fort Worth, Texas." The Medicare participating amount for CPT Code 97750 is \$35.35.

Procedure code 97750-FC rendered on October 24, 2018, has a Work RVU of 0.45 multiplied by the Work GPCI of 1.007 is 0.45315. The practice expense RVU of 0.6 multiplied by the PE GPCI of 0.986 is 0.5916. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.747 is 0.01494. The sum is 1.05969 multiplied by the DWC conversion factor of \$58.31 for a MAR of \$61.79. For each extra therapy unit after the first unit of the code with the highest PE, payment is reduced by 50% of the practice expense. This code has the highest PE. The first unit is paid at \$61.79. The PE reduced rate is \$44.54 at 7 units is \$311.78. The total is \$373.57. Per 28 TAC §134.203(h), reimbursement is the lesser of the MAR or the provider's charge. The lesser amount is \$270.48. Therefore, this amount is recommended.

Conclusion

For the reasons stated above, the DWC finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$270.48.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of TLC Sections 413.031 and 413.019 (if applicable), the DWC has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The DWC hereby ORDERS the respondent to remit to the requestor the amount of \$270.48 plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	September 20, 2019 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 TAC §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 DWC within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the DWC 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 DWC. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 TAC §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.