



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

Elite Healthcare Fort Worth

Respondent Name

XL Insurance America Inc

MFDR Tracking Number

M4-19-4629-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

June 24, 2019

REQUESTOR'S POSITION SUMMARY

"Carrier is not paying according to authorization our facility received regarding this patient."

RESPONDENT'S POSITION SUMMARY

The Austin carrier representative for XL Insurance America Inc is Flahive, Ogden & Latson who acknowledged receipt of the copy of this medical fee dispute on July 2, 2019. 28 Texas Administrative Code §133.307 states, in relevant part:

- (d) Responses. Responses to a request for MFDR shall be legible and submitted to the division and to the requestor in the form and manner prescribed by the division.
 - (1) Timeliness. The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile **within 14 calendar days after the date the respondent received the copy of the requestor's dispute** [emphasis added]. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

Review of the documentation finds that no response has been received on behalf of the insurance carrier from carrier representative to date. The division concludes that the insurance carrier failed to respond within the timeframe required by §133.307(d)(1). The division will base its decision on the information available.

SUMMARY OF FINDINGS

Date of Service	Disputed Services	Amount in Dispute	Amount Ordered
November 14, 2018	Two units of 97140	\$55.87	\$35.75

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 §134.203 sets out the reimbursement guidelines for professional medical

services.

3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 59 – Processed based on multiple or concurrent procedure rules
 - P12 – Workers’ compensation jurisdictional fee schedule adjustment
 - 26951 – Additional allowance is not recommended as this bill was reviewed in accordance with State guidelines usual and customary policies

Issues

1. Is the insurance carrier’s denial supported?
2. Does the multiple procedure payment reduction rule apply to the services in dispute?
3. What is the total allowable reimbursement for two units of 97140?
4. Is the requestor entitled to additional reimbursement?

Findings

1. Elite Healthcare Fort Worth is seeking additional reimbursement for two units of 97140. Gallagher Bassett reduced the number of allowed units based on “State guidelines.” Review of the submitted documentation found insufficient evidence to support this denial. The maximum allowable reimbursement will be calculated per applicable fee guideline.
2. The fee guideline for the professional services in dispute is found at 28 TAC 134.203. Rule §134.203 paragraph (a)(7) also states that Medicare payment policies apply to professional services.

Payment reductions were made by the carrier based upon multiple procedure rules. The *Centers for Medicare and Medicaid Claims Processing Manual 100-04, Chapter 5 titled Part B Outpatient Rehabilitation and CORF/OPT Services* applies and sets the policies applicable to physical therapy services.

Review of the Medicare policies finds that the multiple procedure payment reduction (MPPR) applies to the Practice Expense (PE) of certain time-based physical therapy codes when more than one unit or procedure is provided to the same patient on the same day. Medicare publishes a list of the codes subject to MPPR annually.

For 2018 the codes subject to MPPR are found in the *CY 2018 PFS Final Rule Multiple Procedure Payment Reduction Files*. Review of that list find that code 97140 is subject to MPPR policy.

The division concludes that the MPPR policy applies to the services in dispute.

3. Applicable 28 TAC 134.203(h) states that the total reimbursement is the lesser of the maximum allowable reimbursement (MAR) and the billed amount.

The MPPR policy states that:

- Full payment is made for the unit or procedure with the highest Practice Expense (PE) payment factor; and
- For subsequent units the Practice Expense (PE) payment factor is reduced by 50 percent.

Review of the November 14, 2018 medical bill provided indicates that three procedures were billed by the health care provider. In order to determine whether the MPPR applies to the service in dispute, the DWC must rank all the services provided on November 14, 2018 by their PE payment factor.

Here is a chart ranking the PE payment for each of the codes billed by the health care provider on November 14, 2018.

CODE	PRACTICE EXPENSE	Medicare Policy
97110	0.4	MPPR applies
97112	0.47	Highest rank, no MPPR
97140	0.35	MPPR applies

As shown above, code 97140 **does not** have the highest PE payment among the services billed by the provider that day, therefore the reduced PE payment applies.

The *MPPR Rate File* that contains the payments for 2018 services is found at <https://www.cms.gov/Medicare/Billing/TherapyServices/index.html>.

- MPPR rates are published by carrier and locality.
- The services were provided in Fort Worth Texas.
- The carrier code for Texas is 4412 and the locality code for Fort Worth is 28.
- The MPPR payment for one unit of 97110 is \$23.98 for the Fort Worth locality.

The following formula represents the calculation of the DWC MAR at §134.203 (c)(1) & (2).

$$(DWC \text{ Conversion Factor} \div Medicare \text{ Conversion Factor}) \times Medicare \text{ Payment} = MAR$$

The table below illustrates the calculation of the total allowable reimbursement for the two units of 97140 in dispute.

Code	Medicare Payment	Maximum Allowable Reimbursement (MAR) §134.203 (c)(1) & (2)	Billed Amount From medical bill	Reimbursement §134.203 (h) Lesser of MAR and billed amount
97140	\$22.07 ¹	$(58.31 \div 35.9996) \times (22.07 \times 2 \text{ units}) = \71.50	\$91.62	\$71.50
¹ MPPR reduced payment			Total Allowable Reimbursement	\$71.50

The total allowable DWC fee guideline reimbursement amount for two units of 97140 is \$71.50.

4. Application of the MPPR and the applicable DWC fee guideline rule result in a total reimbursement amount of \$71.50 for the services in dispute. The carrier paid only \$35.75. Additional reimbursement in the amount of \$35.75 is due.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement in the amount of \$35.75 is due.

ORDER

Based on the submitted information the division has determined that Elite Healthcare Fort Worth is entitled to additional reimbursement. The division hereby ORDERS Gallagher Basset to remit to the requestor \$35.75 plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this order.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

August 29, 2019
Date

RIGHT TO APPEAL

Either party to this medical fee dispute may seek review of this division decision. To appeal, submit form division Form-045M titled ***Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)*** found at <https://www.tdi.texas.gov/forms/form20numeric.html>.

Follow the instructions on pages 3 and 4. The request must be received by the division within twenty days of your receipt of this decision. This decision becomes final if the request for review of this decision is not timely made. 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.

If you have questions about the division Form-045M, please call CompConnection at 1-800-252-7031, Option 3 or you may email your question to CompConnection@tdi.texas.gov

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a CompConnection 1-800-252-7031 opción 3, o correo electrónico a CompConnection@tdi.texas.gov