



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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AMENDED 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

M4-19-4705-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

June 27, 2019

Response Submitted by:

Flahive, Ogden & Latson

REQUESTOR'S POSITION SUMMARY

"This bill was underpaid."

RESPONDENT'S POSITION SUMMARY

"The medical fee dispute is not eligible for medical fee dispute resolution by the Division's Medical Review Division. The claimant is in a certified health care network."

SUMMARY OF FINDINGS

Date of Service	Disputed Services	Amount in Dispute	Amount Ordered
April 1 – 24, 2019	Outpatient physical therapy	\$182.82	\$182.82

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

Issues

1. Is the respondent's position supported?
2. What rule is applicable to the outpatient services?
3. Does the multiple procedure payment reduction rule apply to the services in dispute?
4. What is the total allowable reimbursement for services in dispute?
5. Is the requestor entitled to additional reimbursement?

Findings

The requestor is seeking additional reimbursement for outpatient physical therapy services rendered in an outpatient setting from April 1 – 24, 2019. The insurance reduced the payment based upon "exceeding contracted/legislated fee arrangement" and "multiple procedure rules."

1. The respondent states, "The claimant is in a certified health care network." Review of the submitted explanation of benefits found "TX HCN" listed as "Coventry Health Care Workers' Compensation Inc.". is a certified network on the Division's webpage, the carrier did not provide convincing evidence that the injured employee is enrolled in this network, nor did the carrier provide documentation to support that the requestor is contracted with TX HCN. The respondent's position is not supported. The disputed services will be reviewed per applicable fee guideline.
2. The applicable Division Rule is found in 28 Texas Administrative Code 134.403. The applicable section is:

(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 OPSS 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 status indicator for each of the HCPCs code listed on the DWCO60 have an "A" status indicator which is defined as, "Not paid under OPSS. Paid by MACs under a fee schedule or payment system other than OPSS."

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. 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 2019 the codes subject to MPPR are found in the *CY 2019 PFS Final Rule Multiple Procedure Payment Reduction Files*.

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

4. 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 April 1 - 24, 2019 medical bill provided indicates that multiple procedures were billed by the health care provider. In order to determine whether the MPPR applies to the services in dispute, the DWC must rank all the services provided April 1 – 24, 2019 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 April 5, 2019.

CODE	PRACTICE EXPENSE	Medicare Policy
97110	0.4	Highest. MPPR applies to second and third units
97140	0.35	MPPR applies to all units

As shown above, code 97110 **has** the highest PE payment among the services billed by the provider that day, therefore full payment is made on the first unit and the reduced PE payment applies to any other units provided on the same day.

The *MPPR Rate File* that contains the payments for 2019 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 Tyler, Texas.
- The carrier code for Texas is 4412 and the locality code for Tyler is 99.
- The MPPR payment for first unit of 97110 is \$30.31 and \$23.55 for all other units.
- The MPPR payment for each unit of 97140 is \$21.70.

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 services in dispute.

Date of service	Code	Units	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
April 1, 2019	97110	2	\$30.21 ^{1st} unit \$23.55 ^{2nd} unit	59.19/36.0391 x \$30.21 = \$49.78 59.19/36.0391 x \$23.55 = \$38.68 Total of \$88.46	\$389.50	\$88.46
April 4, 2019	97110	3	\$30.21 ^{1st} unit \$23.55 ^{2nd} & 3rd units	59.19/36.0391 x \$30.21 = \$49.78 59.19/36.0391 x \$23.55 = \$38.68 x 2 = \$77.36 Total of \$127.14	\$584.25	\$127.14

April 8, 2019	97110	3	\$30.21 ^{1st} unit \$23.55 ^{2nd} & 3rd units	59.19/36.0391 x \$30.21 = \$49.78 59.19/36.0391 x \$23.55 = \$38.68 x 2 = \$77.36 Total of \$127.14	\$584.25	\$127.14
April 11, 2019	97110	3	\$30.21 ^{1st} unit \$23.55 ^{2nd} & 3rd units	59.19/36.0391 x \$30.21 = \$49.78 59.19/36.0391 x \$23.55 = \$38.68 x 2 = \$77.36 Total of \$127.14	\$584.25	\$127.14
April 15, 2019	97110	2	\$30.21 ^{1st} unit \$23.55 ^{2nd} unit	59.19/36.0391 x \$30.21 = \$49.78 59.19/36.0391 x \$23.55 = \$38.68 Total of \$88.46	\$389.50	\$88.46
April 18, 2019	97110	3	\$30.21 ^{1st} unit \$23.55 ^{2nd} & 3rd units	59.19/36.0391 x \$30.21 = \$49.78 59.19/36.0391 x \$23.55 = \$38.68 x 2 = \$77.36 Total of \$127.14	\$584.25	\$127.14
April 24, 2019	97110	4	\$30.21 ^{1st} unit \$23.55 ^{2nd, 3rd, and} 4th units	59.19/36.0391 x \$30.21 = \$49.78 59.19/36.0391 x \$23.55 = \$38.68 x 3 = \$116.03 Total of \$165.81	\$779.00	\$165.81
April 1, 2019	97140	1	\$21.70	59.19/36.0391 x \$21.70 = \$35.64	\$159.75	\$35.64
April 4, 2019	97140	1	\$21.70	59.19/36.0391 x \$21.70 = \$35.64	\$159.75	\$35.64
						\$922.57

The total allowable DWC fee guideline reimbursement is \$922.57.

- Application of the MPPR and the applicable DWC fee guideline rule result in a total reimbursement amount of \$922.57 for the services in dispute. The carrier paid \$665.00. The requestor is seeking \$182.82. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement in the amount of \$182.82 due.

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 \$182.82, 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 9, 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