



TEXAS DEPARTMENT OF INSURANCE

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

7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645

(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

MED PROVIDER SOLUTIONS

Respondent Name

OLD REPUBLIC INSURANCE COMPANY

MFDR Tracking Number

M4-19-5251-01

Carrier's Austin Representative

Box Number 44

MFDR Date Received

August 22, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The patient was approved for treatment. The services were provided, and the bills were denied per EOB for absence of precertification/authorization. CPT Codes 90837 and 90901 were preauthorized, #3224545."

Amount in Dispute: \$ 1,190.89

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "As this dispute is based on services for a disputed diagnosis (...), this dispute should be dismissed until the compensability of the diagnosis is resolved. Please note a hearing is scheduled to decide the extent of the compensable injury.."

Response Submitted by: White Espey PLLC

SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
April 2, 2019 through April 16, 2019	90837-59 x 3 and 90901 x 2	\$1,190.89	\$519.70

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 TAC §133.307 sets out the procedures for resolving medical fee disputes.
- 28 TAC §134.600 sets out the guidelines for preauthorization, concurrent review, and voluntary certification of healthcare.
- 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
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 197 – Payment denied/reduced for absence of precertification/authorization
 - 5264 – Payment is denied-service not authorized
 - 5085 – Payment is denied as the billed diagnosis is not allowed in this claim

Issue(s)

1. Did the insurance carrier deny date of service April 2, 2019 due to CEL issues?
2. Are the insurance carrier’s denial reasons supported for dates of service April 11, 2019 and April 16, 2019?
3. Is CPT Code 90901 a timed procedure code?
4. What is the applicable rule for determining reimbursement for the disputed services?
5. Is the requestor entitled to reimbursement for the disputed services?

Findings

1. The requestor seeks reimbursement for CPT Codes 90837 x 1 and 90901 x 1 rendered on April 2, 2019. The insurance carrier denied the disputed charges with denial reduction code; “5085 – Payment is denied as the billed diagnosis is not allowed in this claim.”

28 TAC §133.305 (b) states that if a dispute regarding compensability, extent-of-injury or liability exists for the same services for which there is a medical fee dispute, the dispute regarding compensability, extent-of-injury or liability shall be resolved prior to the submission of a medical fee dispute.

Documentation provided by the parties indicates that the insurance carrier denied payment to the requestor due to an unresolved compensability, extent-of-injury or liability issue. The carrier’s explanation of benefits was timely presented to the requestor in the manner required by 28 TAC §133.240.

The service in dispute dated April 2, 2019, contains an unresolved compensability, extent-of-injury or liability issue. For that reason, this matter is not eligible for adjudication of a medical fee under 28 TAC §133.307.

The DWC hereby notifies the requestor that the appropriate process to resolve the compensability, extent-of-injury or liability issue is found a Texas Labor Code, Chapter 410, and corresponding 28 TAC §141.1. The requestor may choose to file the required DWC Form-045 titled *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference (BRC)* to resolve this matter. A copy of the form and corresponding instructions are attached.

2. The requestor seeks reimbursement for CPT Codes 90837-59 x 2 and 90901 x 1 rendered on April 11, 2019 and April 16, 2019. The insurance carrier denied the disputed services with denial reduction codes: “197 – Payment denied/reduced for absence of precertification/authorization” and “5264 – Payment is denied-service not authorized.”

The respondent states, “The patient was approved for treatment. The services were provided, and the bills were denied per EOB for absence of precertification/authorization. CPT Codes 90837 and 90901 were preauthorized, #3224545.”

The requestor submitted a copy of a preauthorization letter issued by Sedgwick, dated February 28, 2019. The preauthorization letter indicated the following:

		Start Date	End Date
Specific Request	Individual Psychotherapy 1x6, Biofeedback therapy (EMG, PNG, TEMP) 1 x 6	2/26/19	5/26/19
Outcome	“The medical provider, injured worker, or the injured worker’s representative, if any, and workers’ compensation claims adjustor have been notified that this specific service meets established criteria for medical necessity ONLY based on the information presented by the medical provider.”		

28 TAC §134.203(b)(1) states, “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; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.”

CPT Code 90837 is defined as “Psychotherapy, 60 minutes with patient.”

CPT Code 90901 is defined as “Biofeedback training by any modality.”

28 TAC §134.600 (p) (7) states in pertinent part, “Non-emergency health care requiring preauthorization includes... (7) all psychological testing and psychotherapy, repeat interviews, and biofeedback, except when any service is part of a preauthorized or division exempted return-to-work rehabilitation program...”

28 TAC §134.600 (c) (1) (B) states in pertinent part, “(c) The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur... (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care...”

The DWC finds that the requestor obtained preauthorization for the disputed services, as a result, the insurance carrier’s denial reasons are not supported, and the disputed services are therefore reviewed pursuant to 28 TAC §134.203.

3. 28 TAC §134.203 states in pertinent part (b) 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; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules...”

The Medicare Quarterly Provider Newsletter found at https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/MedQtrlyComp_Newsletter_ICN903696.pdf dated April 2011 revised October 2011 states in pertinent part, “Untimed codes are used by providers to bill for services that are not defined by specific time frames. The reimbursement for untimed codes is fixed. No matter how long the evaluation or service, providers can bill only one unit of untimed codes for a patient per date of service with some exceptions...”

The requestor billed the following units for CPT Code 90901.

Date of Service	CPT Code	Number of Units
4/16/19	90901	4

The DWC finds that the requestor is entitled to one (1) unit of CPT Code 90901 rendered on April 16, 2019. Pursuant to Medicare Payment Policies.

4. 28 TAC §134.203 states in pertinent part, “(c) 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. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32. (2) 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...”
 - Procedure code 90837, April 11, 2016, has a Work RVU of 3 multiplied by the Work GPCI of 1.012 is 3.036. The practice expense RVU of 0.69 multiplied by the PE GPCI of 1.014 is 0.69966. The malpractice RVU of 0.11 multiplied by the malpractice GPCI of 0.768 is 0.08448. The sum is 3.82014 multiplied by the DWC conversion factor of \$59.19 for a MAR of \$226.11.
 - Procedure code 90837, April 16, 2019, has a Work RVU of 3 multiplied by the Work GPCI of 1.012 is 3.036. The practice expense RVU of 0.69 multiplied by the PE GPCI of 1.014 is 0.69966. The malpractice RVU of 0.11 multiplied by the malpractice GPCI of 0.768 is 0.08448. The sum is 3.82014 multiplied by the DWC conversion factor of \$59.19 for a MAR of \$226.11.
 - Procedure code 90901, April 16, 2019, has a Work RVU of 0.41 multiplied by the Work GPCI of 1.012 is 0.41492. The practice expense RVU of 0.7 multiplied by the PE GPCI of 1.014 is 0.7098. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.768 is 0.01536. The sum is 1.14008 multiplied by the DWC conversion factor of \$59.19 for a MAR of \$67.48.
 - Review of the submitted documentation finds that the requestor is entitled to reimbursement in the amount of \$519.70 for disputed CPT Codes 90837 and 90901 rendered on April 11, 2019 and April 16, 2019.

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 \$519.70.

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 \$519.70 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 27, 2019

Date

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.