



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

BAYLOR SURGICARE AT OAKMONT

Respondent Name

ARCH INDEMNITY INSURANCE CO

MFDR Tracking Number

M4-19-5333-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

AUGUST 29, 2019

REQUESTOR'S POSITION SUMMARY

"Based on this fee schedule, the correct amount due for these services is \$2,446.30."

Amount in Dispute: \$1,154.09

RESPONDENT'S POSITION SUMMARY

"It is the carrier's position that the reimbursement as identified on those EOBs is consistent with Medical Fee Guidelines. The provider is not entitled to any additional reimbursement."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: April 10, 2019, Ambulatory Surgical Care Services CPT Code 25609, \$1,154.09, \$63.82

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 (DWC).

Background

- 1. 28 Texas Administrative Code §133.307, effective May 31, 2012 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.402, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
- P12-Workers' compensation state fee schedule adjustment
- 983-Charge for this procedure exceeds Medicare ASC schedule allowance.
- 4123-Allowance is based on Texas ASC device intensive procedure calculation and guidelines.

- W3-In accordance with TDI-DWC rule 134.804, this bill has been identified as a request for reconsideration or appeal.

Issues

Is the requestor entitled to additional reimbursement for ASC services rendered on April 10, 2019?

Findings

1. Baylor Surgicare at Oakmont (requestor) is seeking medical fee dispute resolution in the amount of \$1,154.09 for ASC services, CPT code 25609, rendered to the injured employee on April 10, 2019. Arch Indemnity Insurance Co. (respondent) paid \$5,575.89 for code 25609 based upon the fee guideline.
2. The fee guidelines for disputed services is found in 28 TAC §134.402.
3. 28 TAC §134.402(b) (6) states,
Definitions for words and terms, when used in this section, shall have the following meanings, unless clearly indicated otherwise. "Medicare payment policy" means reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare.
4. 28 TAC §134.402(d) states,
For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section, including the following paragraphs.
CPT code 25609 is described as " Open treatment of distal radial intra-articular fracture or epiphyseal separation; with internal fixation of 3 or more fragments."
5. To determine the appropriate reimbursement for CPT code 25609 the DWC refers to 28 TAC §134.402(f).
28 TAC §134.402(f)(2)(A)(i)(ii) states,
The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the *Federal Register*.
Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the *Federal Register*, or its successor. The following minimal modifications apply: (2) Reimbursement for device intensive procedures shall be: (A) the sum of: (i) the ASC device portion; and (ii) the ASC service portion multiplied by 235 percent."

Per ADDENDUM AA, CPT codes 25609 is a device intensive procedure.

The following formula was used to calculate the MAR:

- Step 1 calculating the device portion of the procedure:

The national reimbursement is found in the Addendum B for National Hospital Outpatient Prospective Payment System (OPPS) code 25609 for CY 2019 = \$5,699.59

The device dependent APC offset percentage for National Hospital OPPS found in Addendum P for code 25609 for CY 2019 is 44.52%

Multiply these two = \$2,537.46

- Step 2 calculating the service portion of the procedure:

Per Addendum AA, the Medicare fully implemented ASC reimbursement rate for code 25609 for CY 2019 is \$3,915.73.

This number is divided by 2 = \$1,957.86.

This number multiplied by the City Wage Index for Fort Worth, TX of 0.9703= \$1,899.71.

The sum of these two is the geographically adjusted Medicare ASC reimbursement =\$3,857.57.

The service portion is found by taking the geographically adjusted rate of \$3,857.57 minus the device portion of \$2,537.46 = \$1,320.11.

Multiply the service portion by DWC payment adjustment of 235% = \$3,102.25.

- Step 3 the MAR is determined by adding the sum of the reimbursement for the device portion + the service portion = \$5,639.71. The insurance carrier paid \$5,575.89. As a result, additional reimbursement of \$63.82 is recommended.

Conclusion

For the reasons stated above, the DWC finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$63.82.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the DWC has determined the requestor is entitled to additional reimbursement for the disputed services.

The DWC hereby ORDERS the respondent to remit to the requestor \$63.82, plus applicable accrued interest per 28 Texas Administrative Code §134.130 due within 30 days of receipt of this order.

Authorized Signature

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Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

09/26/2019

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 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 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. **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.