



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 NORTH DALLAS

Respondent Name

XL SPECIALTY INSURANCE CO

MFDR Tracking Number

M4-20-0090-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

SEPTEMBER 13, 2019

REQUESTOR'S POSITION SUMMARY

"The attached date of service was not paid in full...Please see the attached documentation for the billed services."

Amount in Dispute: \$236.29

RESPONDENT'S POSITION SUMMARY

No response was received

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Rows include February 15, 2019 with CPT codes 97110-GP, 97112-GP, 97140-GP and a TOTAL row.

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 (TAC)§133.307, effective May 31, 2012 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets out the reimbursement guidelines for professional services.

3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 1014-The attached billing has been re-evaluated at the request of the provider. Based on tis re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
  - W3-Additional payment made on appeal/reconsideration.
  - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - 18-Exact duplicate claim/service.
  - 247-A payment or denial has already been recommended for this service.

### **Issues**

1. Did the insurance carrier respond to the medical fee dispute?
2. Is the requestor entitled to additional reimbursement for physical therapy services rendered on February 15, 2019?

### **Findings**

1. The Austin carrier representative for XL Specialty Insurance Co is Flahive Ogden & Latson. Flahive Ogden & Latson acknowledged receipt of the copy of this medical fee dispute on September 20, 2019. Rule §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 §133.307(d)(1).

2. The requestor, Elite Healthcare North Dallas, billed for physical therapy services, CPT codes 97140-GP, 97112-GP and 97110-GP, rendered on February 15, 2019. The requestor contends that the reimbursement was not in accordance with the fee guideline and additional reimbursement of \$236.29 is due for the physical therapy services.
3. The fee guidelines for disputed services is found at 28 TAC §134.203.
4. 28 TAC §134.203(a)(5) states, “‘Medicare payment policies’ when used in this section, shall mean 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.”
5. The disputed services are described as:
  - CPT code 97110- “Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility.”
  - CPT code 97112-“Therapeutic procedure, 1 or more areas, each 15 minutes; neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities.”
  - CPT code 97140-“Manual therapy techniques (eg, mobilization/ manipulation, manual lymphatic drainage, manual traction), 1 or more regions, each 15 minutes.”

The requestor appended the “GP” modifier to physical therapy services. The “GP” modifier is described as “Services delivered under an outpatient physical therapy plan of care.”

6. Medicare Claims Processing Manual Chapter 5, 10.3.7-effective June 6, 2016, titled *Multiple Procedure Payment Reductions for Outpatient Rehabilitation Services*, states:

Full payment is made for the unit or procedure with the highest PE payment.

For subsequent units and procedures with dates of service prior to April 1, 2013, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment is made for the PE for services submitted on professional claims (any claim submitted using the ASC X12 837 professional claim format or the CMS-1500 paper claim form)

and 75 percent payment is made for the PE for services submitted on institutional claims (ASC X12 837 institutional claim format or Form CMS-1450).

For subsequent units and procedures with dates of service on or after April 1, 2013, furnished to the same patient on the same day, full payment is made for work and malpractice and 50 percent payment is made for the PE for services submitted on either professional or institutional claims.

To determine which services will receive the MPPR, contractors shall rank services according to the applicable PE relative value units (RVU) and price the service with the highest PE RVU at 100% and apply the appropriate MPPR to the remaining services.

When the highest PE RVU applies to more than one of the identified services, contractors shall additionally sort and rank these services according to highest total fee schedule amount, and price the service with the highest total fee schedule amount at 100% and apply the appropriate MPPR to the remaining 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 CMS 1693F the *CY 2019 PFS Final Rule Multiple Procedure Payment Reduction Files*. Review of that list find that code 97110, 97112, and 97140 are subject to MPPR policy.

Here is a chart ranking the PE payment for each of the codes billed by the health care provider on February 15, 2019.

CODE	PRACTICE EXPENSE	MEDICARE POLICY
97110	0.4	MPPR applies
97112	<b>0.47</b>	<b>Highest rank, no MPPR</b>
97140	0.35	MPPR applies

As shown above, code 97112 has the highest PE payment among the services billed by the provider that day, therefore, the reduced PE payment applies to all other services.

7. 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 Carrollton, TX.
- The carrier code for Texas is 4412 and the locality code for Carrollton is 11.

CODE	MPPR PAYMENT
97110	\$24.27
97112	\$27.38
97140	\$22.35

8. Per 28 Texas Administrative Code §134.203(c)(1)(2), “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. The following hypothetical example illustrates this annual adjustment activity if the DWC had been using this MEI annual percentage adjustment: The 2006 DWC conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) DWC conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = Maximum Allowable Reimbursement (MAR).

The 2019 DWC Conversion Factor is 59.19

The 2019 Medicare Conversion Factor is 36.0391

Using the above formula, the DWC finds the MAR is:

Code	Units	Medicare Payment	MAR or \$134.203 (h) Lesser of MAR billed amount	Insurance Carrier Paid	Amount Due
97110	4	\$24.27*	\$39.86 x 4 = \$159.44	\$79.72	\$ 79.72
97112	1	\$35.96	\$59.06	\$104.03	\$0.00
97112	1	\$27.38*	\$44.97		
97140	2	\$22.35	\$36.71 X 2 = \$73.41	\$0.00	\$73.41

\*MPPR reduced payment

**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 \$153.13.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code 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 \$153.13 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

10/28/2019  
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 Texas Administrative Code §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 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.**