



# 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**

LABORDE THERAPY CENTER

**Respondent Name**

TEXAS MUTUAL INSURANCE CO

**MFDR Tracking Number**

M4-20-0418-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

OCTOBER 16, 2019

#### REQUESTOR'S POSITION SUMMARY

"At no time during the discussion of coverage was a utilization review department (Coventry) discussed...At no time until after work conditioning was performed did the adjuster mention that precertification was required through Coventry. *I would appreciate a reconsideration of the denial based on the fact that not all information was given to request authorization. We are not a Texas based provider, we are from Louisiana. Subsequently, after this conversation the adjuster asked if we would continue services and that the insurance company would send out an agreement letter (for future services). However, our billing department advised to wait on decision of coverage for the services rendered before scheduling future treatment.*"

**Amount in Dispute:** \$1,275.00

#### RESPONDENT'S POSITION SUMMARY

"The carrier maintains the denial for message modifier 732 which notifies the provider that accurate coding is essential for reimbursement. Modifier incorrectly billed or missing. The provider did not fully comply per Rule 134.230 (B) and corrections were not submitted on the appeals. The provider instead changed cpt codes to separate therapy codes which denied for no preauthorization as it was not obtained. See DWC 60 packet. No payment is due."

**Response Submitted by:** Texas Mutual Insurance Co.

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 26, 2019	CPT Code 97161-GP Physical Therapy Evaluation	\$150.00	\$134.95
February 26, 2019 Through March 18, 2019	CPT Code 97545-GP (9 dates) Work Hardening/Conditioning; initial 2 hours	\$125.00/ea	\$0.00
Total		\$1,275.00	\$134.95

## ***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 (TAC), effective May 31, 2012 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers' compensation system.
3. 28 Texas Administrative Code §134.600, effective November 1, 2018, requires preauthorization for work hardening/conditioning services.
4. 28 Texas Administrative Code §134.225, effective July 7, 2016, sets the reimbursement guidelines for the disputed service.
5. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - CAC-197-Precertification/authorization/notification absent.
  - CAC-4-The procedure code is inconsistent with the modifier used or a required modifier is missing.
  - 732-Accurate coding is essential for reimbursement. Modifier billed incorrectly or missing. Services are not reimbursable as billed.
  - 930-Pre-authorization required, reimbursement denied.
  - CAC-P12-Workers' compensation jurisdictional fee schedule adjustment.
  - CAC-16-Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.
  - 225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
  - 737-Modifier is not applicable to DWC specific codes (i.e. AQ; GP; GO, 59).
  - CAC18-Exact duplicate claim/service.

### **Issues**

Is the requestor entitled to reimbursement for codes 97161-GP and 97545-GP?

### **Findings**

1. The requestor provided a physical therapy evaluation and work hardening/conditioning services in the state of Louisiana from February 26, 2019 through March 18, 2019 to an injured employee with an existing Texas Workers' Compensation claim. The requestor was dissatisfied with the respondent's final action. The requestor filed for dispute resolution under 28 TAC §133.307. The DWC concludes that because the requestor sought the administrative remedy outlined in 28 TAC§133.307 for resolution of the matter of the request for payment, the dispute is to be decided under the jurisdiction of the Texas Workers' Compensation Act and applicable rules.
2. The requestor is seeking medical dispute resolution for physical therapy evaluation, CPT code 97161-GP, in the amount of \$150.00 rendered on February 26, 2019.

The respondent denied reimbursement for CPT code 97161 based upon "CAC18-Exact duplicate claim/service." The original Explanation of Benefits (EOB) was not submitted by either party; therefore, the DWC will review code 97161 based upon the fee guideline.

The applicable fee guideline for physical therapy services is found at 28 TAC §134.203.

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."

CPT code 97161 is described as "Physical therapy evaluation: low complexity, requiring these components: A

history with no personal factors and/or comorbidities that impact the plan of care; An examination of body system(s) using standardized tests and measures addressing 1-2 elements from any of the following: body structures and functions, activity limitations, and/or participation restrictions; A clinical presentation with stable and/or uncomplicated characteristics; and Clinical decision making of low complexity using standardized patient assessment instrument and/or measurable assessment of functional outcome. Typically, 20 minutes are spent face-to-face with the patient and/or family.”

The requestor appended the “GP” modifier to code 97161. The “GP” modifier is described as “Services delivered under an outpatient physical therapy plan of care.”

The requestor submitted a copy of the Initial Evaluation report to support billed service; therefore, reimbursement is recommended.

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

The Medicare Participating amount for code 97161 in Louisiana is \$82.17.

Using the above formula, the DWC finds the MAR is \$134.95. The respondent paid \$0.00. The requestor is due the difference between MAR and amount paid of \$134.95.

3. The requestor is also seeking reimbursement for work hardening/conditioning services, CPT code 97545-GP, in the amount of \$1,125.00 rendered from February 26, 2019 through March 18, 2019.

Dr. Kyle F. Dickson referred the claimant to the requestor for a work hardening/conditioning program.

CPT code 97545 is described as “Work hardening/conditioning; initial 2 hours.” The requestor appended the “GP” modifier to code 97545. The “GP” modifier is described as “Services delivered under an outpatient physical therapy plan of care.”

The respondent denied reimbursement for CPT code 97545-GP based upon: “CAC-197-Precertification/authorization/notification absent;” “930-Pre-authorization required, reimbursement denied.” “CAC-4-The procedure code is inconsistent with the modifier used or a required modifier is missing;” “732-Accurate coding is essential for reimbursement. Modifier billed incorrectly or missing. Services are not reimbursable as billed;” “CAC-P12-Workers’ compensation jurisdictional fee schedule adjustment;” “CAC-16-Claim/service lacks information or has submission/billing error(s) which is needed for adjudication;” “225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information;” and “737-Modifier is not applicable to DWC specific codes (i.e. AQ; GP; GO, 59).”

Preauthorization Issue:

The respondent denied reimbursement based upon, "CAC-197-Precertification/authorization/notification absent;" and "930-Pre-authorization required, reimbursement denied."

Per 28 TAC §134.600(p)(4), "Non-emergency health care requiring preauthorization includes: all work hardening or work conditioning services."

The requestor wrote, "the patient's adjuster at Texas Mutual, Cesar Ramirez requested that work conditioning be performed."

The DWC reviewed the submitted documentation that included the following emails to verify the requestor's position:

- On February 7, 2019 the Adjuster Cesar Ramirez wrote: "I forwarded the invoice to our medical audit department and was informed that we can't guarantee any amount of payment until services are performed and we receive the bill for review. However, we will pay according to the Louisiana workers' compensation fee schedule. If there is no WC fee schedule, we will pay according to the Medicare fee schedule."

The Insurance Verification Specialist, Christine MaGuire, responded: "This includes the work hardening as well..correct?"

The Adjuster responded: "Yes that is correct."

The Specialist: "The work hardening wouldn't be covered due to tx using 164% of medicare fee schedule and work hardening/conditioning isn't on the medicare fee schedule."

The Adjuster: Does Louisiana have a WC fee schedule and if so, is work conditioning/work hardening on there? Also if a procedure is not on a fee schedule we would pay fair and just."

- On February 12, 2019 the Adjuster wrote: "So will [Claimant have the FCE and Work Hardening/conditioning?"

The Specialist responded: "He is scheduled for the FCE on 02/20/2019 @ 7AM. We will schedule him for work hardening/conditioning that day since you said to do it afterward. How many sessions of work hardening/conditioning are you requesting?"

The Adjuster responded: "I appreciate the timely response! The number of sessions will depend on the FCE and however many the PT or his doctor would like to request."

The Specialist responded: "Ok, Great. I will keep you posted."

- On March 6, 2019 the Adjuster wrote: "I wanted to see if there was an update on Work Hardening/Conditioning."

The Specialist responded: "I am including his initial evaluation and last visit note. If you have any additional questions please let me know."

- On March 7, 2019 the Adjuster wrote: "I just wanted to make sure you all submitted for preauthorization. Do you know if you all did this before starting Work Hardening?"

The Specialist responded: "Please see this conversation we had on 02/07/2019. If indeed this is not correct information. Please advise."

The Adjuster responded: "I reviewed our conversation on 02/07/19 and this was concerning the amount for payment. However, preauthorization is still required. I have provided preauthorization information to you over the phone on a conversation we had on 02/01/19."

The Specialist responded: "Where would I submit the auth?"

The Adjuster responded: "Preauthorization would be sent to the following: Coventry"

Based upon these emails, the DWC finds the requestor's position is not supported.

On March 18, 2019, the respondent denied the requestor's preauthorization request for twelve sessions of work hardening/conditioning and physical therapy services.

The DWC finds per 28 TAC §134.600(p)(4) the disputed services required preauthorization. No evidence was submitted to support the disputed work hardening/conditioning services were preauthorized. The respondent's denial of payment due to a lack of preauthorization is supported.

Incorrect of Missing Modifier Issue:

The respondent also denied reimbursement for CPT code 97545-GP based upon "CAC-4-The procedure code is inconsistent with the modifier used or a required modifier is missing;" "732-Accurate coding is essential for reimbursement. Modifier billed incorrectly or missing. Services are not reimbursable as billed;" and "737-Modifier is not applicable to DWC specific codes (i.e. AQ; GP; GO, 59)."

The applicable fee guideline for work hardening/conditioning services is found at 28 TAC §134.230.

28 TAC §134.230 states,

The following shall be applied to Return To Work Rehabilitation Programs for billing and reimbursement of Work Conditioning/General Occupational Rehabilitation Programs, Work Hardening/Comprehensive Occupational Rehabilitation Programs, Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs, and Outpatient Medical Rehabilitation Programs. To qualify as a division Return to Work Rehabilitation Program, a program should meet the specific program standards for the program as listed in the most recent Commission on Accreditation of Rehabilitation Facilities (CARF) Medical Rehabilitation Standards Manual, which includes active participation in recovery and return to work planning by the injured employee, employer and payor or insurance carrier.

28 TAC §134.230(2)(A) states,

For division purposes, General Occupational Rehabilitation Programs, as defined in the CARF manual, are considered Work Conditioning.

(A) The first two hours of each session shall be billed and reimbursed as one unit, using CPT code 97545 with modifier "WC.

28 TAC §134.230(3)(A) states,

For division purposes, Comprehensive Occupational Rehabilitation Programs, as defined in the CARF manual, are considered Work Hardening.

(A) The first two hours of each session shall be billed and reimbursed as one unit, using CPT code 97545 with modifier "WH.

The requestor billed with the modifier "GP" that is not consistent with 28 TAC §134.230(2)(A) and (3)(A). It is necessary to use the correct modifier to identify whether the program is work conditioning or work hardening, and also to calculate the appropriate reimbursement. The respondent's denial of payment due to incorrect or missing modifiers is supported.

Lack of Documentation Issue:

The respondent denied reimbursement based upon, "CAC-16-Claim/service lacks information or has submission/billing error(s) which is needed for adjudication;" and "225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information."

The requestor submitted copies of "work conditioning/hardening" reports that support 56 minutes of treatment rendered on February 26, 28, March 4, 6 and 7, 2019. No documentation to support the program on March 11, 12, 14 and 18, 2019 was submitted.

The DWC finds the reports do not identify whether the program is work hardening or work conditioning. No reports were submitted for dates of service March 11 through March 18, 2019. The respondent's denial of payment due to a lack of documentation is supported.

The DWC finds reimbursement is not due for CPT code 97545-GP based upon:

- The requestor did not obtain preauthorization for the work hardening/conditioning program;
- The requestor did not append the appropriate modifiers to the disputed program; and
- The requestor 's reports do not identify whether the program is work hardening or work conditioning.
- The requestor did not submit documentation for dates of service March 11 through March 18, 2019.

**Conclusion**

For the reasons stated above no reimbursement is due for code 97545-GP. As stated above, the DWC finds that the requestor has established that reimbursement is due for code 97161-GP. As a result, the amount ordered is \$134.95.

**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 \$134.95, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

_____	_____	NOVEMBER 25, 2019
Signature	Medical Fee Dispute Resolution Officer	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.**