



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

UT HEALTH EAST TEXAS REHAB

Respondent Name

INDEMNITY INSURANCE CO OF NORTH AMERICA

MFDR Tracking Number

M4-20-0784-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

November 26, 2019

Response Submitted By

ESIS

REQUESTOR'S POSITION SUMMARY

"Underpaid/Denied Physical Therapy Rate."

RESPONDENT'S POSITION SUMMARY

"Per the attached EOR, no additional is owed. Therefore, we are standing by the payment made..."

SUMMARY OF DISPUTE

| Dates of Service | Disputed Services | Dispute Amount | Amount Due |
|-----------------------------------|-----------------------------|----------------|------------|
| August 1, 2019 to August 28, 2019 | Outpatient Physical Therapy | \$262.27 | \$262.27 |

AUTHORITY

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC) in Title 28, Part 2 of the Texas Administrative Code.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §133.240 sets out provisions regarding medical payments and denials.
- 28 Texas Administrative Code §134.203 sets out the fee guideline for professional medical services.
- 28 Texas Administrative Code §134.807 sets out state specific requirements for carrier medical bill reporting.
- Texas Labor Code §402.082 requires DWC to maintain certain information on every compensable injury
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 170 – REIMBURSEMENT IS BASED ON THE OUTPATIENT/INPATIENT FEE SCHEDULE.
 - P12 – WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
 - 5208 – NETWORK ADJUSTMENTS APPLIED
 - 877 – REIMBURSEMENT IS BASED ON THE CONTRACTED AMOUNT.
 - 45 – CHARGE EXCEEDS FEE SCHEDULE/MAXIMUM ALLOWABLE OR CONTRACTED LEGISLATED FEE ARRANGEMENT.
 - W3 – ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION.
 - 536 – THESE CHARGES HAVE ALREADY BEEN BILLED AND PAID FOR ACCORDING TO FEE SCHEDULE AND/OR REASONABLE GUIDELINES. NO FURTHER PAYMENT IS DUE.
 - B13 – PREVIOUSLY PAID. PAYMENT FOR THIS CLAIM/SERVICE MAY HAVE BEEN PROVIDED IN A PREVIOUS PAYMENT.
 - 5261 – LETTER – PLEASE SEE ADDITIONAL MESSAGE XCODES FOR INFORMATION RELATED TO THIS REVIEW.
 - 5280 - NO ADDITIONAL REIMBURSEMENT ALLOWED AFTER REVIEW OF APPEAL/RECONSIDERATION

Issues

1. Is the claim subject to a workers' compensation health care network certified under Insurance Code Chapter 1305?
2. Is the requestor entitled to additional reimbursement?

Findings

1. The insurance carrier denied disputed services with claim adjustment reason codes:

- 5208 – NETWORK ADJUSTMENTS APPLIED
- 877 – REIMBURSEMENT IS BASED ON THE CONTRACTED AMOUNT.
- 45 – CHARGE EXCEEDS FEE SCHEDULE/MAXIMUM ALLOWABLE OR CONTRACTED LEGISLATED FEE ARRANGEMENT.

Neither the submitted explanations of benefits (EOBs) or the insurance carrier's response identifies the name of the certified health care network, or any network, that is responsible for the employee's claim of injury.

Labor Code §402.082(a)(3) requires DWC to maintain information on every compensable injury as to the "identification of whether the claimant is receiving medical care through a workers' compensation health care network certified under Chapter 1305, Insurance Code."

Based on information maintained by DWC, the claim for the employee's injury is not subject to any network.

28 Texas Administrative Code (TAC) Chapter 134, Subchapter I, sets out reporting requirements for all insurance carriers for each medical bill; including Rule 28 TAC §134.807(f)(7), which requires carriers to report whether services were performed within a certified workers' compensation HCN or under a contractual fee arrangement for each medical bill on a workers' compensation claim.

The insurance carrier has not previously reported to DWC that these services were performed within a certified network or under a contractual fee arrangement. Nor did the response contain any documentation to support the claim is subject to a workers' compensation HCN.

Moreover, Rule 28 TAC §134.240(f)(15) requires the carrier's explanation of benefits (EOB) to include the "workers' compensation health care network name (if applicable)" when the carrier pays or denies a bill. However, the submitted EOBs do not reference the name of any network. The insurance carrier has thus failed to meet the requirements of Rule 28 TAC §133.240(f)(15).

Because the respondent failed to support the disputed services were subject to the requirements of any certified workers' compensation HCN under Insurance Code Chapter 1305, DWC concludes Insurance Code Chapter 1305 does not apply to this dispute. The carrier's payment reductions based on network contract are not supported.

Furthermore, the respondent did not present any documentation to support a contract between the parties and any informal network or between the parties directly. The respondent has thus failed to support any contracted payment amount, contracted fee schedule or contractual fee arrangement.

Consequently, DWC will review the services for payment consistent with division rules and fee guidelines.

2. This dispute regards physical therapy services subject to DWC Professional Fee Guideline, Rule 28 TAC §134.203(c), which determines maximum allowable reimbursement (MAR) using Medicare payment policies modified by DWC rules. The MAR is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by a DWC conversion factor. Medicare's multiple-procedure payment reduction (MPPR) policy requires payment in full for the first unit of therapy with the highest practice expense. Payment is reduced by 50% of the practice expense for each extra therapy unit (codes with multiple-procedure indicator 5) provided on the same day.

Reimbursement is calculated as follows:

- Procedure code 97161 (August 1, 2019) has a Work RVU of 1.2 multiplied by the Work GPCI of 1 is 1.2. The practice expense RVU of 1.15 multiplied by the PE GPCI of 0.938 is 1.0787. The malpractice RVU of 0.05 multiplied by the malpractice GPCI of 0.796 is 0.0398. The sum is 2.3185 multiplied by the DWC conversion factor of \$59.19 for a MAR of \$137.23.

- Procedure code 97113 (August 12, 2019) has a Work RVU of 0.48 multiplied by the Work GPCI of 1 is 0.48. The practice expense RVU of 0.6 multiplied by the PE GPCI of 0.938 is 0.5628. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.796 is 0.01592. The sum is 1.05872 multiplied by the DWC conversion factor of \$59.19 for a MAR of \$62.67. For each extra therapy unit after the first unit of the code with the highest PE, payment is reduced by 50% of the practice expense. The first unit is paid at \$62.67. The PE reduced rate is \$46.01 at 2 units is \$92.02. The total is \$154.69.
- Procedure code 97113 (August 14, 2019) has a Work RVU of 0.48 multiplied by the Work GPCI of 1 is 0.48. The practice expense RVU of 0.6 multiplied by the PE GPCI of 0.938 is 0.5628. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.796 is 0.01592. The sum is 1.05872 multiplied by the DWC conversion factor of \$59.19 for a MAR of \$62.67. For each extra therapy unit after the first unit of the code with the highest PE, payment is reduced by 50% of the practice expense. The first unit is paid at \$62.67. The PE reduced rate is \$46.01. The total is \$108.68.
- Procedure code 97113 (August 19, 2019) has a Work RVU of 0.48 multiplied by the Work GPCI of 1 is 0.48. The practice expense RVU of 0.6 multiplied by the PE GPCI of 0.938 is 0.5628. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.796 is 0.01592. The sum is 1.05872 multiplied by the DWC conversion factor of \$59.19 for a MAR of \$62.67. For each extra therapy unit after the first unit of the code with the highest PE, payment is reduced by 50% of the practice expense. The first unit is paid at \$62.67. The PE reduced rate is \$46.01. The total is \$108.68.
- Procedure code 97113 (August 21, 2019) has a Work RVU of 0.48 multiplied by the Work GPCI of 1 is 0.48. The practice expense RVU of 0.6 multiplied by the PE GPCI of 0.938 is 0.5628. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.796 is 0.01592. The sum is 1.05872 multiplied by the DWC conversion factor of \$59.19 for a MAR of \$62.67. For each extra therapy unit after the first unit of the code with the highest PE, payment is reduced by 50% of the practice expense. The first unit is paid at \$62.67. The PE reduced rate is \$46.01. The total is \$108.68.
- Procedure code 97113 (August 26, 2019) has a Work RVU of 0.48 multiplied by the Work GPCI of 1 is 0.48. The practice expense RVU of 0.6 multiplied by the PE GPCI of 0.938 is 0.5628. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.796 is 0.01592. The sum is 1.05872 multiplied by the DWC conversion factor of \$59.19 for a MAR of \$62.67. For each extra therapy unit after the first unit of the code with the highest PE, payment is reduced by 50% of the practice expense. The first unit is paid at \$62.67. The PE reduced rate is \$46.01 at 2 units is \$92.02. The total is \$154.69.
- Procedure code 97113 (August 28, 2019) has a Work RVU of 0.48 multiplied by the Work GPCI of 1 is 0.48. The practice expense RVU of 0.6 multiplied by the PE GPCI of 0.938 is 0.5628. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.796 is 0.01592. The sum is 1.05872 multiplied by the DWC conversion factor of \$59.19 for a MAR of \$62.67. For each extra therapy unit after the first unit of the code with the highest PE, payment is reduced by 50% of the practice expense. The first unit is paid at \$62.67. The PE reduced rate is \$46.01 at 2 units is \$92.02. The total is \$154.69.

The total allowable reimbursement for the disputed services is \$927.34. The insurance carrier paid \$665.01. The requestor is seeking additional reimbursement of \$262.27. This amount is recommended.

Conclusion

For the reasons above, the requestor has established payment is due. As a result, the amount ordered is \$262.27.

ORDER

In accordance with Texas Labor Code Section 413.031 and 413.019 (if applicable), based on the submitted information, DWC finds the requestor is entitled to additional reimbursement. DWC hereby ORDERS the respondent to remit to the requestor \$262.27, plus accrued interest per Rule §134.130, due within 30 days of receipt of this order.

Authorized Signature

Signature

Grayson Richardson
Medical Fee Dispute Resolution Officer

December 20, 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. The appealing party must submit a *Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision* (form DWC045M). DWC must receive the request within twenty days of your receipt of this decision. You may fax, mail or personally deliver the request to either the field office handling the claim or to DWC at the contact information on the form. You must send a copy to all other parties in the dispute at the same time you file the request. Include a **copy** of this **Medical Fee Dispute Decision** along with any other information required by 28 TAC §141.1(d). Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.