



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

ORTHOTEXAS PHYSICIANS AND SURGEONS

Respondent Name

STATE OFFICE OF RISK MANAGEMENT

MFDR Tracking Number

M4-20-1139-01

Carrier's Austin Representative

Box Number 45

MFDR Date Received

JANUARY 6, 2020

REQUESTOR'S POSITION SUMMARY

"On this date of service, claim denied stating 'payment is adjusted based on diagnosis'. Per AMA & CMS guidelines, there isn't a DX code for [redacted]. See the attached documentation that supports the services provided. Please reprocess claim for payment immediately."

Amount in Dispute: \$11,228.00

RESPONDENT'S POSITION SUMMARY

"The Office is asking the provider to direct services to a diagnosis that is in line with the surgical procedure(s) that were performed on this date of service."

Response Submitted By: State Office of Risk Management (The Office)

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|------------------|-------------------|-------------------|------------|
| June 3, 2019 | CPT Code 26525 | \$2,120.00 | \$1,290.11 |
| | CPT Code 26593 | \$2,835.00 | \$597.02 |
| | CPT Code 26440 | \$2,200.00 | \$613.63 |
| | CPT Code 26440 | \$2,200.00 | \$613.63 |
| | CPT Code 26445 | \$1,873.00 | \$568.72 |
| TOTAL | | \$11,228.00 | \$3,683.11 |

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Background

1. 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §133.10, effective April 1, 2014, sets out the healthcare providers billing procedures for required billing forms and formats.
3. 28 TAC §134.203, effective March 1, 2008, sets out the reimbursement guidelines for professional services.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - B22-This payment is adjusted based on the diagnosis

Issues

Is the requestor due reimbursement for professional surgical services rendered on June 3, 2019?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$11,228.00 for CPT codes 26525, 26593, 26440 (X2) and 26445 rendered on June 3, 2019.
2. The respondent denied reimbursement for the disputed services based upon "B22-This payment is adjusted based on the diagnosis."
3. To determine if the respondent's denial of payment is supported, the DWC refers to the following statute:
 - 28 TAC § 133.307(d)(2)(H) states, "If the medical fee dispute involves compensability, extent of injury, or liability, the insurance carrier shall attach a copy of any related Plain Language Notice in accordance with §124.2 of this title (relating to Carrier Reporting and Notification Requirements)."

The DWC finds the respondent did not file a PLN-11 in accordance with §124.2 disputing the diagnosis; therefore, the DWC finds the respondent did not support this dispute involves compensability, extent of injury, or liability.
 - 28 TAC § 133.10(f)(1)(M) states, "The following data content or data elements are required for a complete professional or noninstitutional medical bill related to Texas workers' compensation health care: (M) diagnosis or nature of injury (CMS-1500/field 21) is required, at least one diagnosis code and the applicable ICD indicator must be present."

The requestor billed for the disputed services for diagnosis code "[redacted]." The Operative report list the preoperative diagnosis as "[redacted]."

The DWC finds the respondent's denial of payment for the disputed services is not supported.
4. The fee guidelines for disputed services are found in 28 TAC §134.203.
5. 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."

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."

Per CCI edits, CPT code 26440 is bundled to 26525; however, a modifier is allowed to differentiate the service. The requestor appended modifier “XU-Unusual non-overlapping service, the use of a service that is distinct because it does not overlap usual components of the main service” to code 26440. The requestor supported that reimbursement is due.

6. 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 74.29

The 2019 Medicare Conversion Factor is 36.0391

Per the CMs 1500, the services were rendered in Carrollton, TX; therefore, the Medicare locality is “Rest of Texas”.

Using the above formula, the DWC finds the following:

| Code | Medicare Participating Amount | Multiple Procedure Rule Discounting of 50% Applies | MAR | Insurance Carrier Paid | Amount Due |
|-------|-------------------------------|--|------------|------------------------|------------|
| 26525 | \$625.85 | No | \$1,290.11 | \$0.00 | \$1,290.11 |
| 26440 | \$595.36 | Yes | \$613.63 | \$0.00 | \$613.63 |
| 26440 | \$595.36 | Yes | \$613.63 | \$0.00 | \$613.63 |
| 26445 | \$551.79 | Yes | \$568.72 | \$0.00 | \$568.72 |
| 26593 | \$579.25 | Yes | \$597.02 | \$0.00 | \$597.02 |

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 \$3,683.11.

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 \$3,683.11, 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

Date

09/23/2020

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, 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 MDR 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.