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 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
ORTHOTEXAS PHYSICIANS AND SURGEONS

Respondent Name
CHUBB INDEMNITY INSURANCE CO

MFDR Tracking Number
M4-20-1157-01

Carrier's Austin Representative
Box Number 17

MFDR Date Received
JANUARY 7, 2020

REQUESTOR'S POSITION SUMMARY

"On this date of service, CPT 24149 denied stating 'bundled/global to surgery'. Modifier 59 has been added to CPT 24149 to indicate that this procedure was distinct/independent from CPT 24160 performed on the same day…See the attached documentation that supports the services provided. Please reprocess claim for payment immediately."

Amount in Dispute: $6,064.00

RESPONDENT'S POSITION SUMMARY

"Based upon the Operative report, code 24149 was, performed through the same skin incision, orifice or surgical approach as the other procedure performed on the disputed date…CorVel maintains the denial of payment for code 24149 based upon CARC code 97."

Response Submitted by: CorVel

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 5, 2019	CPT Code 24160-51-LT	$0.00	$0.00
	CPT Code 24149-59-LT	$6,064.00	$1,201.17
TOTAL		$6,064.00	$1,201.17

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 §133.307, 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. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - 97-Included in another charge or service.
   - R38-Included in another billed procedure.
   - W3-Appeal/reconsideration.
   - LT-Left side.
   - 59-Distinct procedural service.

Issues

Is the requestor entitled to reimbursement for the surgical services rendered on June 5, 2019?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of $6,064.00 for CPT code 24149-LT-59 rendered on June 5, 2019.
2. The respondent denied reimbursement for the disputed services based upon "97-Included in another charge or service."
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. 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."
6. On the disputed date of service the requestor billed the following codes:
   - 24149-Radical resection of capsule, soft tissue, and heterotopic bone, elbow, with contracture release (separate procedure).
   - 24160-Removal of prosthesis, includes debridement and synovectomy when performed; humeral and ulnar components.

   A review of the requestor's billing finds that the requestor appended modifier "59-Distinct Procedural Service" to CPT code 24149.

   Modifier 59 is described as "Under certain circumstances, it may be necessary to indicate that a procedure or service was distinct or independent from other non-E/M services performed on the same day. Modifier 59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances. Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual. However, when another already established modifier is appropriate it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used."

7. The DWC finds per CCI edits, CPT code 24149 is not bundled to code 24160; therefore, the respondent's denial of payment is not supported.
8. Per 28 TAC §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 Division had been using this MEI annual percentage adjustment: The 2006

Division 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) Division conversion factor in 2007."

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

The services were rendered in zip code 75010, which is located in Carrollton, Texas; therefore, the Medicare participating amount is based on locality "Rest of Texas".

The 2019 DWC conversion factor for this service is 74.29.

The 2019 Medicare Conversion Factor is 36.0391

The Medicare participating amount for code 24149 at this location is $1,165.41.

Code 24149 is subject to multiple procedure rule discounting of 50%.

Using the above formula, the DWC finds the MAR is $1,201.17. The respondent paid $0.00. The requestor is due the difference between MAR and amount paid of $1,201.17.

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 $1,201.17.

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 $1,201.17 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	1/30/2020 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, 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.