



# 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](http://www.tdi.texas.gov)

### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

**Requestor Name**

NUEVA VIDA BEHAVIORAL HEALTH

**Respondent Name**

NATIONAL INTERSTATE INSURANCE

**MFDR Tracking Number**

M4-20-1877-01

**Carrier's Austin Representative**

Box Number 06

**MFDR Date Received**

APRIL 7, 2020

#### ***REQUESTOR'S POSITION SUMMARY***

"According to Texas Medical Fee Guidelines, the CPT code 96152 considers psychological interventions as necessary to address non-compliance with the treatment plan, and/or the psychological, behavioral, emotional, cognitive, or social factors associated with a newly diagnosed medical condition or an exacerbation of an established medical condition, when such factors affect symptom management and expression and health promoting behaviors. Further, the Health and Behavioral Intervention (96152) is described as an individual face-to-face (4 units at 15 minutes each), session that does not require pre-authorization."

Disputed Amount: \$1,371.20

#### ***RESPONDENT'S POSITION SUMMARY***

"The treatment at issue required preauthorization. Preauthorization was not obtained before the treatment was rendered. Accordingly, National Interstate is not liable for reimbursement."

Response Submitted By: Burns Anderson Jury & Brenner, LLP

#### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 23, 2019 April 4, 2019	CPT Code 96152 (X4)	\$160.00/each	Not eligible for MFDR
April 10, 2019 April 22, 2019 April 30, 2019 May 7, 2019 May 15, 2019 June 3, 2019 July 2, 2019 July 31, 2019	CPT Code 96152 (X4)	\$160.00/each	\$1,096.88
TOTAL		\$1,371.20	\$1,096.88

## **AUTHORITY**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas 28 Texas Administrative 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 TAC §134.600, effective November 1, 2018, sets out the procedure for obtaining preauthorization.
3. 28 TAC §137.100, effective January 18, 2007, sets out the use of the treatment guidelines.
4. 28 TAC §134.203, effective March 1, 2008, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers' compensation system.
5. The services in dispute were reduced / denied payment by the respondent with the following claim adjustment reason codes:
  - 790-This charge was reimbursed in accordance to the Texas medical fee guideline.
  - 95-Plan procedures not followed.
  - P12-Workers' compensation jurisdictional fee schedule adjustment.
  - U01-There was no UR procedure/treatment request received.
  - U05-The billed service exceeds the UR amount authorized/
  - W3-In accordance with TDI-DWC Rule 134.804, this bill has been identified as a request for reconsideration or appeal.
  - 350-Bill has been identified as a request for reconsideration or appeal.

### **Issues**

1. Is the request for Medical Fee Dispute Resolution (MFDR) eligible for review in accordance with 28 TAC §133.307?
2. Is the requestor entitled to reimbursement for CPT code 96152 rendered from April 10, 2019 through July 31, 2019?

### **Findings**

1. The requestor is seeking medical fee dispute resolution in the amount of \$1,371.20 for CPT code 96152 rendered from March 23, 2019 through July 31, 2019.
2. 28 TAC §133.307(c)(1) states: "Timeliness. A requestor shall timely file the request with the DWC's MFDR Section or waive the right to MFDR. The DWC shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute."

The DWC reviewed the submitted documentation and finds:

- The request for medical dispute resolution was received in MFDR on April 7, 2020.
  - The disputed dates of service are March 23, 2019 through July 31, 2019.
  - The disputed services do not involve issues identified in §133.307(c)(1)(B).
  - Dates of service March 23 and April 4, 2019 are past the one year deadline.
  - Because the requestor did not file this dispute with MFDR for these dates within the one year deadline they are not eligible for MFDR.
3. The respondent denied reimbursement for CPT code 96152 based upon a lack of preauthorization.
  4. 28 TAC §134.600(p)(12) requires preauthorization for "treatments and services that exceed or are not addressed by the Commissioner's adopted treatment guidelines or protocols and are not contained in a treatment plan preauthorized by the carrier."
  5. CPT Code 96152 is described as "Health and behavior intervention, each 15 minutes, face-to-face; individual."
  6. According to the *Low Back* Chapter of the *Official Disability Guidelines* (ODG), behavioral treatment

is recommended treatment for claimant's with chronic low back pain and delayed recovery; therefore, the disputed health and intervention did not require preauthorization. The respondent's denial of payment based upon a lack of preauthorization is not supported.

7. The fee guideline for disputed services is found at 28 TAC§134.203.
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 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 Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2019 DWC conversion factor for this service is 59.19.

The Medicare Conversion Factor is 36.0391

Review of Box 32 on the CMS-1500 the services were rendered in San Antonio, Texas; therefore, the Medicare locality is "Rest of Texas".

The Medicare participating amount for code 96152 at this locality is \$20.87.

Using the above formula, the MAR is \$34.28/unit. The requestor billed for 4 units a day; therefore, \$34.28 X 4 = \$137.11 per day. \$137.11 X 8 dates of service = \$1,096.88. The respondent paid \$0.00. The DWC finds, the requestor is due reimbursement of \$1,096.88.

## **Conclusion**

The DWC finds that the requestor has waived the right to medical fee dispute resolution for the services rendered on March 23 and April 4, 2019, as addressed in 28 Texas Administrative Code §133.307(c)(1). For that reason, the merits of the issues raised by the parties to this dispute have not been addressed.

For the reasons stated above, the DWC finds that the requestor has established that reimbursement is due for services rendered on April 10 through July 31, 2019. As a result, the amount ordered is \$1,096.88.

## ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the DWC has determined the requestor is entitled to additional reimbursement for the disputed services. The DWC hereby ORDERS the respondent to remit to the requestor \$1,096.88, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

## **Authorized Signature**

_____	_____	05/07/2020
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 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.**