



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

DR. AHMED KHALIFA

Respondent Name

LIBERTY MUTUAL INSURANCE CO

MFDR Tracking Number

M4-20-2153-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

MAY 4, 2020

REQUESTOR'S POSITION SUMMARY

"WORK COMP TREATMENT/SERVICES INCORRECT REDUCTION...based on the MAR for the CPT Codes billed according to DWC rule 133 and 134."

Amount in Dispute: \$626.70

RESPONDENT'S POSITION SUMMARY

"The bill has been reviewed and pricing is correct."

Response Submitted By: Liberty Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
June 6, 2019	CPT Code 64490-RT	\$0.00	\$0.00
	CPT Code 64490-LT-50	\$161.03	\$0.46
	CPT Code 64491-RT	\$0.00	\$0.00
	CPT Code 64491-LT-50	\$80.07	\$0.23
	HCPCS Code J3301(X32)	\$385.92	\$4.00
TOTAL		\$626.70	\$4.69

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:
 - B13-Previously paid. Payment for this claim/service may have been provided in a previous payment.
 - P12-Workers' compensation state fee schedule adjustment.
 - 300-Code description not listed.
 - 309-The charge for this procedure exceeds the fee schedule allowance.
 - W3-Additional payment made on appeal/reconsideration.
 - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

Is the requestor entitled to additional reimbursement for CPT codes 64490-LT-50, 64491-LT-50 and J3301?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$626.70 for CPT codes 64490-LT-50, 64491-LT-50 and J3301 rendered on June 6, 2019.
2. The disputed services are described as:
 - 64490- Injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance (fluoroscopy or CT), cervical or thoracic; single level. Modifier 50 -Bilateral procedure and LT-Left side were appended to code 64490.
 - 64491-Injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance (fluoroscopy or CT), cervical or thoracic. Modifier 50 -Bilateral procedure and LT-Left side were appended to code 64491.
 - J3301- Injection, triamcinolone acetonide, not otherwise specified, 10 mg.
3. The respondent contends additional payment is not due because provider was paid based upon the fee guideline.
4. The fee guidelines for disputed services is found at 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."
6. 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."
7. Medicare Claims Processing Manual, Chapter 12-Physicians/Nonphysicians Practitioners, Section 40.7-Claims for Bilateral Surgeries states,
 - (A) General, Bilateral surgeries are procedures performed on both sides of the body during the same operative session or on the same day. The terminology for some procedure codes includes the terms "bilateral" (e.g., code 27395; Lengthening of the hamstring tendon; multiple, bilateral.) or "unilateral or bilateral" (e.g., code 52290; cystourethroscopy; with ureteral meatotomy, unilateral or bilateral). The payment adjustment rules for bilateral surgeries do not apply to procedures identified by CPT as "bilateral" or "unilateral or bilateral" since the fee schedule reflects any additional work required for bilateral surgeries. Field 22 of the MFSDDB indicates whether the payment adjustment rules apply to a surgical procedure."
 - (B) Billing Instructions for Bilateral Surgeries, If a procedure is not identified by its terminology as a bilateral procedure (or unilateral or bilateral), physicians must report the procedure with modifier "-50." They report such procedures as a single line item. (NOTE: This differs from the CPT coding guidelines which indicate that bilateral procedures should be billed as two line items.)

(C) Claims Processing System Requirements, If Field 22 contains an indicator of "1," the standard adjustment rules apply. Base payment on the lower of the billed amount or 150 percent of the fee schedule amount (Field 34 or 35). (Multiply the payment amount in Field 34 or 35 for the surgery by 150 percent and round to the nearest cent.)

Based upon these guidelines, codes 64490 and 64491 are to be billed on a single line and are paid at 150% of the fee schedule.

8. 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

Per the CMs 1500, the services were rendered in Houston, TX; therefore, the Medicare locality is "Houston, Texas".

Using the above formula, the DWC finds the MAR is:

Code	Medicare Participating Amount	MAR (fee schedule X150%)	Insurance Carrier Paid	Amount Due
64490	\$196.67	\$484.51	\$484.05	\$0.46
64491	\$97.80	\$240.94	240.71	\$0.23

9. 28 TAC §134.203(d)(1)(2) states "The MAR for Healthcare Common Procedure Coding System (HCPCS) Level II codes A, E, J, K, and L shall be determined as follows:
 - (1) "125 percent of the fee listed for the code in the Medicare Durable Medical Equipment, Prosthetics, Orthotics and Supplies (DMEPOS) fee schedule."

HCPCS code J3301 does not have a fee listed in DMEPOS fee schedule.

"(2) if the code has no published Medicare rate, 125 percent of the published Texas Medicaid fee schedule, durable medical equipment (DME)/medical supplies, for HCPCS."

Per the Texas Medicaid fee schedule code J3301 has a fee of \$1.70. Therefore, the MAR is \$1.70 X 125% = \$2.125 X 32 units = \$68.00. The respondent paid \$64.00; therefore, the requestor is due \$4.00.
10. The total due for services rendered on June 6, 2019 is \$793.45. The respondent paid \$788.76. The requestor is due the difference of \$4.69.

Conclusion

For the reasons stated above, the DWC finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$4.69.

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 Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$4.69 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

5/28/2020

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.