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**
Gilbert Gonzales DC

**Respondent Name**
Indemnity Insurance Co of North America

**MFDR Tracking Number**
M4-20-2279-01

**Carrier's Austin Representative**
Box Number 15

**MFDR Date Received**
May 14, 2020

## *REQUESTOR'S POSITION SUMMARY*

**Requestor's Position Summary:** "The criteria were met according to the ODG guidelines and the definition of the office visit for and established patient and there are no grounds for denial."

**Amount in Dispute:** $1,800.00

## *RESPONDENT'S POSITION SUMMARY*

**Respondent's Position Summary:** "It has been determined that ESIS Med Bill Impact will stand on the original recommendation of $0.00. Muscle Range of motion and physical performance testing are normally done as part of the physical examination and would be included in the E&M service billed on the same day."

## *SUMMARY OF FINDINGS*

| Dates of Service | Disputed Services | Amount in Dispute | Amount Due |
|---|---|---|---|
| June 20, 2019 | 95831, 95832, 95851 | $1,800.00 | $1,399.36 |

## *FINDINGS AND DECISION*

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

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203 sets out the reimbursement guidelines for professional medical services.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
   - Per National Correct Coding Initiative Edits, this code is not separately reimbursable
   - 16 – Claim/service lacks information or has submission/billing error(s) which is needed of adjudication
   - 193 – Original payment decision is being maintained. This claim was processed properly the first time

**Issues**

1. Are the insurance carrier's reasons for denial or reduction of payment supported?
2. What rule is applicable to reimbursement?

**Findings**

1. The requestor is seeking reimbursement for professional medical services rendered in June 2019. The insurance carrier denied disputed services based on NCCI edits. The insurance carrier states in the response, "Muscle Rage of motion and physical performance testing are normally done as part of the physical examination and would be included in the E & M service billed on the same day."

   Review of the submitted information finds that only codes 95831, 95832 and 95851 were reviewed. Insufficient evidence was found to support an E & M service was billed on the same day. The services in dispute will be reviewed per applicable DWC rules and fee guidelines.

2. 28 TAC 134.203 (c) (1) states in pertinent part to determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. 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 annual conversion factor for the date of service in dispute. This calculation is shown below.
   - 95831 – For services provided in San Antonio, the allowable is $31.57 multiplied by (DWC conversion factor/Medicare conversion factor or 59.19/36.0391 x $31.57 x 26 = $1,348.10
   - 95832 – For services provided in San Antonio, the allowable is $31.21 x 59.19/36.0391 x $31.21 = $51.26
   - 95851 – Review of the NCCI edits found an edit does exist between code 95851 and 95831. The insurance carrier's denial is supported. No payment is recommended.

   The total allowable is $1,399.36. This amount is recommended.

**Conclusion**

In resolving disputes over reimbursement for medically necessary health care to treat a compensable injury, the role of DWC is to adjudicate payment following Texas laws and DWC rules. The findings in this decision are based on the evidence available at the time of review. Even though not all the evidence was discussed, it was considered.

For the reasons above the requestor has established payment is due. As a result, the amount ordered is $1,399.36.

## ***ORDER***

In accordance with Texas Labor Code Section 413.031 and 413.019 (if applicable) and based on the submitted information, DWC finds the requestor is entitled to additional reimbursement. DWC hereby ORDERS the respondent to remit to the requestor $1,399.36, plus accrued interest per Rule §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

| Signature | Medical Fee Dispute Resolution Officer | June 10, 2020<br>Date |
|---|---|---|

## ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §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 DWC within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to DWC using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 TAC §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812**.