



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

RIO OCCUPATIONAL INSTITUTE

Respondent Name

ATLANTIC SPECIALTY INS COMPANY

MFDR Tracking Number

M4-20-2432-01

Carrier's Austin Representative

Box Number 29

MFDR Date Received

JUNE 8, 2020

Response Submitted by:

Dean, Pappas, PLLC

REQUESTOR'S POSITION SUMMARY

"The enclosed claim was denied in error. All other claims for this injured worker have been paid in accordance with TDI/DWC guidelines. Please review the attached and allow for medically necessary services provided to the injured worker and billed in a timely manner."

RESPONDENT'S POSITION SUMMARY

"This is the carrier response to the DWC 60 filed by Rio Occupational Institute. The medical bill made the basis of this Medical Fee Dispute have been sent back the bill audit vendor for an additional review along with the information provided by the Requestor. I note the Requestor has not attached EOBs for all the dates of service. I will advise of the outcome of the review once it is available to me."

SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount in Dispute	Amount Due
December 4, 2019 through March 24, 2020	99213 x 3 and 990880-73 x 3	\$540.00	\$408.81

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code (TLC) §413.031 and applicable 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 §133.305 sets out the procedure for Medical Fee Dispute Resolution.
3. 28 TAC §124.2 sets out requirements for carrier reporting and notification 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
4. 28 TAC §129.5 sets out the rules for completing a work status report.
5. 28 Texas Administrative Code §134.239 sets out the rules for billing for a work status report.
6. 28 Texas Administrative Code §134.230 sets out the medical fee guideline rules for professional services.

7. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 108 - Claim not covered by this payer/contractor. You must send the claim to the correct payer/contractor.

Issue(s)

1. Are there unresolved issues regarding liability for the injury?
2. Is the requestor entitled to reimbursement for CPT Code 99213 rendered on December 4, 2019 through March 24, 2020?
3. Is the requestor entitled to reimbursement for CPT Code 99080-73 rendered on December 4, 2019 through March 24, 2020?
4. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier denied payment for the disputed compound with claim adjustment reason code "108 - Claim not covered by this payer/contractor. You must send the claim to the correct payer/contractor."

The insurance carrier did not maintain this denial reason in the respondent's position statement.

28 TAC §124.2(h) requires notification to the division and claimant of any dispute of disability or extent of injury using plain language notices with language and content prescribed by the division. Such notices "shall provide a full and complete statement describing the carrier's action and its reason(s) for such action. The statement must contain sufficient claim-specific substantive information to enable the employee/legal beneficiary to understand the carrier's position or action taken on the claim."

28 TAC §133.307(d)(2)(H) further requires that 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 Rule §124.2 (relating to carrier reporting and notification requirements).

Review of the submitted information finds no copies, as required by Rule §133.307(d)(2)(H), of any PLN-11 or PLN 1 notices issued in accordance with Rule §124.2. The insurance carrier's denial reason is therefore not supported. Furthermore, because the respondent failed to meet the requirements of Rule §133.307(d)(2)(H) regarding notice of issues of liability, the respondent has waived the right to raise such issues during dispute resolution. Consequently, the division concludes there are no outstanding issues of compensability or liability for the injury. The disputed services are therefore reviewed pursuant to the applicable rules and guidelines.

2. The requestor seeks reimbursement for CPT Code 99213 rendered on December 4, 2019 through March 24, 2020.

28 TAC §134.203 (b) states in pertinent part, "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."

CPT code 99213 is described as "Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: An expanded problem focused history; An expanded problem focused examination; Medical decision making of low complexity. Counseling and coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Typically, 15 minutes are spent face-to-face with the patient and/or family."

A review of the submitted report, supports the billing of CPT code 99213; therefore, reimbursement is recommended.

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).

CPT Code 99213 rendered on December 4, 2019

- Review of Box 32 on the CMS-1500 the services were rendered in zip code 78504, which is located in Rest of Texas; therefore, the Medicare participating amount is based on locality "Rest of Texas."
- The 2019 DWC conversion factor for this service is 59.19.
- The 2019 Medicare Conversion Factor is 36.0391
- The Medicare participating amount for 99213 at this location is \$72.46.

Using the above formula, the division finds the MAR is \$119.01. The respondent paid \$0.00. The requestor is due the difference between MAR and amount paid of \$119.01. Therefore, this amount is recommended for date of service December 4, 2019.

CPT Code 99213 rendered on February 19, 2020 and March 24, 2020

- Review of Box 32 on the CMS-1500 the services were rendered in zip code 78504, which is located in Rest of Texas; therefore, the Medicare participating amount is based on locality "Rest of Texas."
- The 2020 DWC conversion factor for this service is 60.32.
- The 2020 Medicare Conversion Factor is 36.0896
- The Medicare participating amount for 99213 at this location is \$73.23

Using the above formula, the division finds the MAR is \$122.40, \$122.40 X 2 dates of services = total MAR of \$244.80. The respondent paid \$0.00. The requestor is due the difference between MAR and amount paid of \$244.80. Therefore, this amount is recommended.

3. The requestor seeks reimbursement for 99080-73 rendered on December 4, 2019 through March 24, 2020. The DWC found that the insurance carrier's denial reason was not supported, and as a result, the requestor is entitled to reimbursement for the disputed service.

CPT code 99080-73 is defined as "Special reports such as insurance forms, more than the information conveyed in the usual medical communications or standard reporting form."

28 TAC §134.239 states, "When billing for a work status report that is not conducted as a part of the examinations outlined in §134.240 and §134.250 of this title, refer to §129.5 of this title."

28 TAC §129.5(i)(1) states "Notwithstanding any other provision of this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the carrier, its agent, or the employer through its carrier, asks for an extra copy. The amount of reimbursement shall be \$15. A doctor shall not bill in excess of \$15 and shall not bill or be entitled to reimbursement for a Work Status Report which is not reimbursable under this section. Doctors are not required to submit a copy of the

report being billed for with the bill if the report was previously provided. Doctors billing for Work Status Reports as permitted by this section shall do so as follows: (1) CPT code '99080' with modifier '73' shall be used when the doctor is billing for a report required under subsections (d)(1), (d)(2), and (f) of this section."

28 Texas Administrative Code §129.5 (d)(1) and (2) states "The doctor shall file the Work Status Report: (1) after the initial examination of the employee, regardless of the employee's work status; (2) when the employee experiences a change in work status or a substantial change in activity restrictions."

A review of the submitted work status reports find the requestor, supported the billing of CPT Code 99080-73 in accordance with 28 TAC §129.5 (d)(2). As a result, reimbursement of \$15.00 x 3 dates of service = a total MAR of \$45.00, therefore this amount is recommended.

4. Review of the submitted documentation finds that the requestor is entitled to a total recommended amount of \$408.81.

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 \$408.81.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of TLC 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 \$408.81 plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	August 26, 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 TAC §133.307, 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 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 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 TAC §141.1(d).

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