



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

PRIDE

Respondent Name

TORUS NATIONAL INSURANCE COMPANY

MFDR Tracking Number

M4-20-2715-01

Carrier's Representative

Box # 19

MDR Received Date

July 17, 2020

Response Submitted by:

Flahive, Ogden & Latson

REQUESTOR'S POSITION SUMMARY

Position Summary Dated July 13, 2020: "Most of the treatment, in this case, was under the CPT code for chronic pain management, 97799GP. Due to some glitch in the system, the carrier, according to the adjuster, has been unable to make payment. I have attached the required documentation to this letter. As you can see from the correspondence section, the medical fee guidelines reimbursement amount for a chronic pain management program that is CARF accredited is \$125.00 an hour. In most instances, the carrier paid only \$31.25 for each eight-hour session. Additionally, no payment was made for several dates of service. The reason that many Requests for Reconsideration and EOBs on Reconsideration are missing from the attached package is explained in the Emails included with this Medical Fee Dispute. The carrier repeatedly sent the 1500s for an internal review and repeatedly promised to straighten the matter out and to make payment. The problem that we are running into is that the carrier has repeatedly made promises to make payment but never lives up to these promises. In an abundance of caution, since the one-year statute is rapidly approaching, I feel it is incumbent upon the healthcare provider to file for medical fee dispute at this time."

Supplemental Response Dated July 30, 2020: The insurance carrier's attorney, James Sheffield, filed a response to our request for medical fee dispute resolution, in that response, Mr. Sheffield provided some new EOBs and some screenshots indicating amounts approved for payment. The problem is that payment has not been made. I have attached another copy of the amounts due and the amounts paid... With respect to the maximum allowable reimbursement (MAR), the amount billed is the usual and customary amount. We agree, for instance, that for a CARF accredited chronic pain management program, the MAR is \$125 an hour."

RESPONDENT'S POSITION SUMMARY

Response Dated July 29, 2020: "With respect to the July 29, 2019 date of service which the provider has identified as July 19, 2019 date of service, the provider claims to have not received any reimbursement. However, the provider was reimbursed \$231.51. We are attaching a copy of proof of payment.

On the August 21, 2019 date of service, the provider was claiming that he is entitled to reimbursement of \$1,040.00 and that the carrier has not reimbursed the provider anything. The provider is wrong on both counts. The provider was billing for Chronic Pain Management Program at \$160 an hour rather than the MAR amount of \$125 per hour. The provider indicated that he provided 6.5 hours of services which would amount to a MAR of \$812.50. The carrier has reimbursed the provider that amount.

On the August 23, 2019 date of service, the provider is claiming reimbursement of \$960. The provider claims that the carrier did not reimburse it. However, the carrier did reimburse the provider the amount of \$750 which is based upon 6 hours of service.

Thus, for the first three dates of service identified by the provider, the provider has indicated that the provider received no reimbursement, when in fact, the provided did. We have attached proof of those payments.

For the dates of service of September 9th, September 11th, and September 13, 2019, the provider claims that he was reimbursed \$31.25 per day. However, the provider was reimbursed a total of \$1,000 per day based upon 8 hours of service being provided during those three days. Thus, the provider's information on the DWC-60 is incorrect.

For the date of service of September 16, 2019, the provider once again claims to have been reimbursed only \$31.25. However, the provider was reimbursed a total of \$812.50. This was based upon 6.5 hours of services.

For the November 25, 2019 date of service, the provider claims it was reimbursed only in the amount of \$31.25. However, the provider was reimbursed a total of \$1,000 for that date of service based upon 8 hours of services.

It appears that the provider has identified the carrier's actions from its initial EOBs but not the subsequent EOBs, most of which recommended additional reimbursement. We have attached the EOBs and payment information to support the carrier's position.

The provider is not entitled to reimbursement beyond \$125 per hour for the Chronic Pain Management Program. On many of the dates of service, the provider has already been reimbursed 100% of the maximum allowable reimbursement."

Supplemental Response Dated August 4, 2020: "The Carrier has previously responded to this dispute on July 29, 2020. As noted in the carrier's initial response dated July 29, 2020, there are differences of opinion between the provider and the carrier with respect to the amount that the provider has received in reimbursement. This may simply be a miscommunication between the provider and its attorney. Specifically, the provider's attorney indicated on the DWC-60, that the provider had been reimbursed amounts less than what the carrier claims to have reimbursed the provider.

Following the carrier's filing of the July 29, 2020 response, there have been communications between the provider and the carrier. We would ask that the Medical Review Division not issue a decision at this point in order to allow the parties to resolve any disagreements concerning the amounts that the provider has been reimbursed.

All of the services in question on the DWC-60 other than the initial date of service is for a chronic pain management program. Although the provider billed at \$ 160 per hour and even though the provider's DWC-60 still indicates it is seeking reimbursement of \$160 per hour, its July 13, 2020 letter to the Medical Review Division noted that it was entitled to reimbursement of \$125 per hour.

The carrier is reimbursing the provider in the amount of \$125 per hour for CPT code 97799.

Unless the provider disagrees with the approach of allowing the parties to resolve their differences without going through medical fee dispute, we would ask the Medical Review Division to not issue a medical fee dispute resolution Finding and Decision, but to allow the parties to resolve their differences. At that point, if there are still any disputes, then the provider could continue its pursuit of medical fee dispute at the Medical Review Division.

Please let me know if you require any additional information to process this dispute. Also, I will maintain an open file on this matter until I get some response from your office as to its disposition. Please notify me of any action on your part and provide me with a copy of any correspondence."

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Service(s)	Amount in Dispute	Amount Due
July 19, 2019(Should be July 29, 2019) through December 11, 2019	90791 and 97799-CP-CA-GP	\$21,063.50	\$3,843.75

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code (TLC) §413.031 and all-applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Background

- 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
- 28 TAC §134.203 sets out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.
- The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 790 – This charge was reimbursed in accordance to the Texas Medical Fee Guidelines
 - 95 – Plan procedure not followed
 - P12 – Workers Compensation jurisdictional fee schedule adjustment

Issues

1. Is CPT Code 90791 rendered on July 19, 2019 eligible for review?
2. What are the rules that apply to a CARF accredited chronic pain management program?
3. Is the requestor entitled to reimbursement?

Findings

1. The requestor billed CPT Code 90791 on July 29, 2019 per CMS-1500. The requestor identified date of service July 19, 2019; however, no documentation was submitted with the dispute to support that date of service July 19, 2019 was billed and audited by the insurance carrier. As a result, this date of service is not eligible for review.
2. The requestor seeks reimbursement for a CARF accredited chronic pain management program rendered on August 21, 2019 through December 11, 2019. The dispute pertains to whether the correct payment amount was issued for each date of service.

The requestor states, "Mr. Sheffield provided some new EOBs and some screenshots indicating amounts approved for payment. The problem is that payment has not been made. I have attached another copy of the amounts due and the amounts paid..."

The respondent states, "It appears that the provider has identified the carrier's actions from its initial EOBs but not the subsequent EOBs, most of which recommended additional reimbursement. We have attached the EOBs and payment information to support the carrier's position."

The DWC will review the documentation submitted by both parties and decide whether the requestor is entitled to additional reimbursement for the disputed chronic pain management services.

Per 28 TAC §134.210 (e)(1) (2) "(e) The following division modifiers shall be used by health care providers billing professional medical services for correct coding, reporting, billing, and reimbursement of the procedure codes. (1) CA, Commission on Accreditation of Rehabilitation Facilities (CARF) accredited programs--This modifier shall be used when a health care provider bills for a return to work rehabilitation program that is CARF accredited. (2) CP, chronic pain management program--This modifier shall be added to CPT code 97799 to indicate chronic pain management program services were performed."

Per 28 TAC §134 .204 (h)(1) "The following shall be applied to Return to Work Rehabilitation Programs for billing and reimbursement of Work Conditioning/General Occupational Rehabilitation Programs, Work Hardening/Comprehensive Occupational Rehabilitation Programs, Chronic Pain Management/ Interdisciplinary Pain Rehabilitation Programs, and Outpatient Medical Rehabilitation Programs. To qualify as a Division Return to Work Rehabilitation Program, a program should meet the specific program standards for the program as listed in the most recent Commission on Accreditation of Rehabilitation Facilities (CARF) Medical Rehabilitation Standards Manual, which includes active participation in recovery and return to work planning by the injured employee, employer and payor or carrier. (1) Accreditation by the CARF is recommended, but not required. (A) If the program is CARF accredited, modifier "CA" shall follow the appropriate program modifier as designated for the specific programs listed below. The hourly reimbursement for a CARF accredited program shall be 100 percent of the MAR."

Per 28 TAC §134 .204 (h)(5) "The following shall be applied to Return to Work Rehabilitation Programs for billing and reimbursement of Work Conditioning/General Occupational Rehabilitation Programs, Work Hardening/Comprehensive Occupational Rehabilitation Programs, Chronic Pain Management/ Interdisciplinary Pain Rehabilitation Programs, and Outpatient Medical Rehabilitation Programs. To qualify as a Division Return to Work Rehabilitation Program, a program should meet the specific program standards for the program as listed in the most recent Commission on Accreditation of Rehabilitation Facilities (CARF) Medical Rehabilitation Standards Manual, which includes active participation in recovery and return to work planning by the injured employee, employer and payor or carrier. (5) The following shall be applied for billing and reimbursement of Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs. (A) Program shall be billed and reimbursed using CPT Code 97799 with modifier "CP" for each hour. The number of hours shall be indicated in the unit's column on the bill. CARF accredited Programs shall add "CA" as a second modifier. (B) Reimbursement shall be \$125 per hour. Units of less than one hour shall be prorated in 15-minute increments. A single 15-minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes."

Review of the submitted documentation finds that the requestor billed CPT Code 97799-CP and appended modifier -CA to identify that the chronic pain management program is CARF accredited, as a result, reimbursement is calculated per 28 TAC §134.204 (h)(5) and the requestor is entitled to \$125/hour.

The calculation of the Maximum Allowable Reimbursement (MAR) is found below:

Date of service	CPT Code	Amount Billed	Number of Units	Amount Paid	Amount Paid	Amount in Dispute	MAR	Amount Due
8/21/19	97799-CP-CA	\$1,040.0	6.5	\$812.50	\$0.00	\$1,040.00	\$812.50	\$0.00
8/23/19	97799-CP-CA	\$960.00	6	\$750.00	\$0.00	\$960.00	\$750.00	\$0.00
9/3/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$968.75	\$1,248.75	\$1,000	\$0.00
9/5/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$968.75	\$1,248.75	\$1,000	\$0.00
9/9/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$968.75	\$1,248.75	\$1,000	\$0.00
9/11/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$968.75	\$1,248.75	\$1,000	\$0.00
9/13/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$968.75	\$1,248.75	\$1,000	\$0.00
9/16/19	97799-CP-CA	\$1,280.00	6.5	\$0.00	\$812.50	\$1,248.75	\$812.50	\$0.00
11/18/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$968.75	\$1,248.75	\$1,000	\$0.00
11/20/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$968.75	\$1,248.75	\$1,000	\$0.00
11/22/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$968.75	\$1,248.75	\$1,000	\$0.00
11/25/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$968.75	\$1,248.75	\$1,000	\$0.00
12/2/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$0.00	\$1,280.00	\$1,000	\$968.75
12/4/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$0.00	\$1,280.00	\$1,000	\$968.75
12/6/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$0.00	\$1,280.00	\$1,000	\$968.75
12/9/19	97799-CP-CA	\$1,280.00	8	\$31.25	\$968.75	\$1,280.00	\$1,000	\$0.00
12/11/19	97799-CP-CA	\$1,200.00	7.5	\$0.00	\$0.00	\$1,200.00	\$937.50	\$937.50
TOTALS				\$1,968.75	\$10,500.00	\$20,807.50	\$16,312.50	\$3,843.75

3. Review of the submitted documentation finds that the requestor is entitled to additional reimbursement in the amount of \$3,843.75, therefore this amount is recommended

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 \$3,843.75.

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 \$3,843.75 plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	August 21, 2020 Date
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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, 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 TAC §141.1(d).

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