



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

NUEVA VIDA BEHAVIORAL HEALTH

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

MFDR Tracking Number

M4-20-2793-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

July 29, 2020

Response Submitted by:

Texas Mutual Insurance Company

REQUESTOR'S POSITION SUMMARY

"Prior Authorization was obtained for all the services we provided, which were medically necessary in aiding the patient recovery for the work-related compensable injury. As stated, "the request appears reasonable. Sources for this review include the ODG, 4th Edition and The American College of Occupational and Environment Guidelines." Denying preauthorized health care services is an administrative violation in accordance with Rule 133.301(a)."

RESPONDENT'S POSITION SUMMARY

"Texas Mutual reviewed the disputes for each bill. Preauthorization was obtained for psychotherapy sessions x 6 to be completed on or around 9/5/19 11/5/19, extension was noted. Documentation for cpt 90837 DOS 9/16/2019 and 9/30/2019 was reviewed, and determined that services billed were more consistent with behavioral health interventions (96152) in fact, documentation is about the same with the exception the two dates were very question driven, compared to the other dates of service being disputed. NUEVA VIDA BEHAVIORAL HEALTH ASSOC INC submitted documentation with ODG recommendation, and though the documentation is consistent for behavioral interventions rather than psychotherapy treatment for mental illness, Texas Mutual understand that the two services co-exist. Behavioral Health Interventions, specifically, this service identifies efforts to assess a patient's behavior and emotional state, as well as the cognitive and /or social factors that are important to the prevention, treatment, or management of the physical health problem. Documentation for all disputed dates support this. Texas Mutual agrees with the documentation in part that 96152 is consistent with psychological interventions. Though treatment is addressing the mental status and behavioral observations, as well as psychosocial stressors of the patient, behavioral interventions is not considered reasonable and necessary for whom there is no documented indication that a biopsychosocial condition or factor may be significantly affecting the treatment or medical management of an injury or illness. The latest documentation from the referring provider (Dr. Valdez) dated 7/24/19 does not indicate or support a referral for behavioral health interventions, negative for any cognitive and psychiatric concerns. Patient appears to be compliant with treatment, also confirmed and noted by the therapist notes for Nueva Vida. Texas Mutual maintains its position on denial in accordance with DWC rules and/or medical fee guidelines."

SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount in Dispute	Amount Due
July 29, 2019 through September 30, 2019	90837 x 2 and 96152 x 3	\$585.00	\$306.00

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 §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 insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - CAC-P12 – WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
 - CAC-W3 – IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
 - CAC-16 – CLAIM/SERVICE LACKS INFORMATION OR HAS SUBMISSION/BILLING ERROR(S) WHICH IS NEEDED FOR ADJUDICATION.
 - CAC-193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.
 - 225 – THE SUBMITTED DOCUMENTATION DOES NOT SUPPORT THE SERVICE BEING BILLED. WE WILL RE-EVALUATE THIS UPON RECEIPT OF CLARIFYING INFORMATION.
 - 350 – IN ACCORDANCE WITH TDI DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
 - 724 & DC4 – NO ADDITIONAL PAYMENT AFTER A RECONSIDERATION OF SERVICES.
 - 892 – DENIED IN ACCORDANCE WITH DWC RULES AND/OR MEDICAL FEE GUIDELINE INCLUDING CURRENT CPT CODE DESCRIPTIONS/INSTRUCTIONS.

Issue(s)

1. Does the respondent's position statement address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed?
2. Is the insurance carrier's denial reason supported for CPT Code 96152 x 3 rendered on July 29, 2019 through August 19, 2019?
3. Is the insurance carrier's denial reason supported for CPT Code 90837 x 2 rendered on September 16, 2019 and September 30, 2019?
4. What is the MAR reimbursement for CPT Code 96152?
5. Is the requestor entitled to reimbursement for CPT Code 96152 rendered on July 29, 2019 through August 19, 2019?

Findings

1. The requestor seeks reimbursement for CPT Code 96152 x 3 rendered on July 29, 2019 through August 19, 2019. The insurance carrier states, "Texas Mutual agrees with the documentation in part that 96152 is consistent with psychological interventions. Though treatment is addressing the mental status and behavioral observations, as well as psychosocial stressors of the patient, behavioral interventions is not considered reasonable and necessary for whom there is no documented indication that a biopsychosocial condition or factor may be significantly affecting the treatment or medical management of an injury or illness."

28 TAC §133.307(d)(2)(F) states that " The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review."

The additional denial reason raised by the insurance carrier in the position statement does not match the explanation of benefits submitted by the requestor (as enumerated in the Background section above). The respondent did not submit information to MFDR sufficient to support that the reasonable and necessary issue raised has been presented to the requestor or that the requestor had otherwise been informed of these new reasons or defenses prior to the date that the request for medical dispute resolution was filed with the DWC; therefore, the DWC concludes that the respondent has waived the right to raise such additional denial reasons or defenses. Any newly raised denial reasons or defenses shall not be considered in this review.

2. The requestor seeks reimbursement for CPT Code 96152 x 3 rendered on July 29, 2019 through August 19, 2019. The insurance carrier denied the disputed service with denial reduction code "225- THE SUBMITTED DOCUMENTATION DOES NOT SUPPORT THE SERVICE BEING BILLED. WE WILL RE-EVALUATE THIS UPON RECEIPT OF CLARIFYING INFORMATION."

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 96152 is defined as "Health and behavior intervention, each 15 minutes, face-to-face; individual."

The DWC finds that the documentation submitted by the requestor supports the billing of CPT Code 96152, as a result, the requestor is entitled to reimbursement for CPT Code 96152 rendered on July 29, 2019 through August 19, 2019.

3. The requestor seeks reimbursement for CPT Code 90837 rendered on September 16, 2019 and September 30, 2019. The insurance carrier states, "Documentation for cpt 90837 DOS 9/16/2019 and 9/30/2019 was reviewed, and determined that services billed were more consistent with behavioral health interventions (96152) in fact, documentation is about the same with the exception the two dates were very question driven, compared to the other dates of service being disputed. NUEVA VIDA BEHAVIORAL HEALTH ASSOC INC submitted documentation with ODG recommendation, and though the documentation is consistent for behavioral interventions rather than psychotherapy treatment for mental illness, Texas Mutual understand that the two services co-exist. Behavioral Health Interventions, specifically, this service identifies efforts to assess a patient's behavior and emotional state, as well as the cognitive and /or social factors that are important to the prevention, treatment, or management of the physical health problem. Documentation for all disputed dates support this."

The respondent denied reimbursement for CPT code 90837 based upon denial reason, "225- THE SUBMITTED DOCUMENTATION DOES NOT SUPPORT THE SERVICE BEING BILLED. WE WILL RE-EVALUATE THIS UPON RECEIPT OF CLARIFYING INFORMATION."

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 90837 is defined as "Psychotherapy, 60 minutes with patient and/or family member."

Review of the documentation submitted by the requestor does not support the billing of CPT Code 90837. As a result, the requestor is not entitled to reimbursement for CPT Code 90837. Therefore, reimbursement cannot be recommended.

4. The fee guideline for disputed services is found at 28 TAC§134.203.

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; therefore,
 - $\$34.28 \times 4 = \137.11 . The lesser of the MAR and the sought amount is \$102.00, therefore this amount is recommended. The respondent paid \$0.00. The DWC finds, the requestor is due reimbursement of \$102.00 x 3 dates of service, for a total recommended amount of \$306.00.
5. Review of the submitted documentation finds that the requestor is entitled to a total reimbursement amount of \$306.00. 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 \$306.00.

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 reimbursement for the services involved in this dispute. The DWC hereby ORDERS the respondent to remit to the requestor the amount of \$306.00 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 28, 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, 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.