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 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
ALLISON WALLS, PHD

Respondent Name
TRAVELERS INDEMNITY INSURANCE CO

MFDR Tracking Number
M4-21-0220-01

Carrier's Austin Representative
Box Number 05

MFDR Date Received
OCTOBER 13, 2020

REQUESTOR'S POSITION SUMMARY

"DESIGNATED DR REFERRED TESTING…The carrier has not paid this claim in accordance and compliance with TDI-DWC Rule 133 and 134."

Amount in Dispute: $3,438.59

RESPONDENT'S POSITION SUMMARY

"Provider has been reimbursed for the disputed services under the Division's adopted fee schedule, no additional reimbursement is due."

Response Submitted By: Travelers

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 18, 2020	CPT Code 96116 (X1) Neurobehavioral status exam (clinical assessment of thinking, reasoning and judgment, [eg, acquired knowledge, attention, language, memory, planning and problem solving, and visual spatial abilities]), by physician or other qualified health care professional, both face-to-face time with the patient and time interpreting test results and preparing the report; first hour	$162.07	$0.00
	CPT Code 96132 (X1) Neuropsychological testing evaluation services by physician or other qualified health care professional, including integration of patient data, interpretation of standardized test results and clinical data, clinical decision making, treatment planning and report, and interactive feedback to the patient, family member(s) or caregiver(s), when performed; first hour	$222.53	$0.00
	CPT Code 96133 (X14)	$2,339.68	$0.00

	Neuropsychological testing evaluation services by physician or other qualified health care professional, including integration of patient data, interpretation of standardized test results and clinical data, clinical decision making, treatment planning and report, and interactive feedback to the patient, family member(s) or caregiver(s), when performed; each additional hour (List separately in addition to code for primary procedure)		
	CPT Code 96136(X1) Psychological or neuropsychological test administration and scoring by physician or other qualified health care professional, two or more tests, any method; first 30 minutes	$77.20	$0.00
	CPT Code 96137 (X9) Psychological or neuropsychological test administration and scoring by physician or other qualified health care professional, two or more tests, any method; each additional 30 minutes (List separately in addition to code for primary procedure)	$637.11	$0.00
TOTAL		$3,438.59	$0.00

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 (TAC) §133.307, effective May 31, 2012, 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. 28 TAC §127.10 effective September 1, 2012, sets out the Designated Doctor procedures and requirements.
4. The services in dispute were reduced / denied by the respondent with the following claim adjustment reason codes:
   - 109-Claim not covered by the payer/contractor. You must send the claim to the correct payer/contractor.
   - W3-Additional payment made on appeal/reconsideration.
   - TR99-The billed service is under a Paradigm contract. Please submit you billing invoice to Paradigm Health Corp.
   - P12-Workers' compensation jurisdictional fee schedule adjustment.
   - 1001-Based on the corrected billing and/or additional information/documentation now submitted by the provider, we are recommending further payment to be made for the above noted procedure code.
   - 4394-The billing of the procedure code has exceeded the National Correct Coding Initiative, Medically Unlikely Edits amounts, for the number of times this procedure can be billed on a date of service. An allowance has either not been paid or the maximum allowance for the MUE has been paid.

Issues

Is the requestor entitled to additional reimbursement for professional services rendered on March 18, 2020?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of $3,438.59 for CPT codes 961116, 96132, 96133, 96136, and 96137 rendered on March 18, 2020.
2. The respondent initially denied reimbursement for the disputed services based upon a contract. Upon reconsideration, the respondent did not maintain the denial and issued payment of $2,269.73 based upon "P12" and "4394." (codes described above).
3. To determine if the requestor is due additional reimbursement, the DWC refers to the following statute:

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

4. On the disputed date of service, the requestor billed CPT codes 96116, 96132, 96133, 96136 and 96137.
   28 TAC §134.203(c)(1) states “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.”

   28 TAC §134.203(c)(2) states “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.”

   The DWC conversion factor for 2020 is 60.32.

   The Medicare conversion factor for 2020 is 36.0896.

   To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = Maximum Allowable Reimbursement (MAR).

   Using the above formula, the MAR is:

Code	Medicare Participating Amount	Number of Units	MAR	Insurance Carrier Paid	Rationale
96116	$97.05	1	$162.21 or lesser amount	$162.07 (Amount Billed)	Paid per fee schedule, additional reimbursement is not recommended.
96132	$133.25	1	$222.71 or lesser amount	$222.53 (Amount Billed)	Paid per fee schedule, additional reimbursement is not recommended
96133	$100.07	14	$2,341.59 or lesser amount The requestor billed $167.12 per hour	$1,170.82 (The insurance carrier paid for 7 hours)	Addressed below.
96136	$46.23	1	$77.27 or lesser amount	$77.20 (Amount Billed)	Paid per fee schedule, additional reimbursement is not recommended
96137	$42.39	9	$637.65 or lesser amount	$637.11 (Amount Billed	Paid per fee schedule, additional reimbursement is

					not recommended

5. The respondent reduced payment for code 96133 based upon "4394-The billing of the procedure code has exceeded the National Correct Coding Initiative, Medically Unlikely Edits amounts, for the number of times this procedure can be billed on a date of service. An allowance has either not been paid or the maximum allowance for the MUE has been paid."

   To determine if the respondent's reduction of payment is supported, the DWC refers to the following statute:

   - 28 TAC §134.203(a)(7) states, "Specific provisions contained in the Texas Labor Code or the Texas Department of Insurance, Division of Workers' Compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by CMS in administering the Medicare program. Independent Review Organization (IRO) decisions regarding medical necessity made in accordance with Labor Code §413.031 and §133.308 of this title (relating to MDR by Independent Review Organizations), which are made on a case-by-case basis, take precedence in that case only, over any Division rules and Medicare payment policies."

     - 28 Texas Administrative Code §127.10(c) states in part, "The designated doctor shall perform additional testing when necessary to resolve the issue in question. The designated doctor shall also refer an injured employee to other health care providers when the referral is necessary to resolve the issue in question and the designated doctor is not qualified to fully resolve the issue in question. Any additional testing or referral required for the evaluation is not subject to preauthorization requirements nor shall those services be denied retrospectively based on medical necessity, extent of injury, or compensability in accordance with the Labor Code §408.027 and §413.014, Insurance Code Chapter 1305, or Chapters 10, 19, 133, or 134 of this title (relating to Workers' Compensation Health Care Networks, Agents' Licensing, General Medical Provisions, and Benefits--Guidelines for Medical Services, Charges, and Payments, respectively) but is subject to the requirements of §180.24 of this title (relating to Financial Disclosure)."

   Medicare developed MUEs to detect potentially medically unnecessary services. These MUEs set a maximum number of units allowed for a specific service on a single date of service. The DWC finds the respondent's denial over Medicare MUEs is in conflict with28 TAC §134.203(a)(7) and §127.10(c).

6. *NCCI Policy Manual*, Chapter 11, (M)(2), effective January 1, 2020 states, "The psychiatric diagnostic interview examination (CPT codes 90791, 90792), psychological/neuropsychological testing (CPT codes 96136-96146), and psychological / neuropsychological evaluation services (CPT codes 96130-96133) must be distinct services if reported on the same date of service. CPT Manual instructions permit physicians to integrate other sources of clinical data into the report that is generated for CPT codes 96130-96133. Since the procedures described by CPT codes 96130-96139 are timed procedures, physicians shall not report time for duplicating information (collection or interpretation) included in the psychiatric diagnostic interview examination and/or psychological/neuropsychological evaluation services or test administration and scoring. (CPT codes 96101 and 96118 were deleted January 1, 2019.)

   The requestor noted on the Psychological Evaluation Report that the claimant underwent a total of 21 hours of examination and testing on the disputed date of service. The report noted that the claimant underwent Neuropsychological testing evaluation services: 15 hours; Examinee Interview & Neurobehavioral/Mental Status Exam: 1 hour; Neuropsychological Testing and Scoring: 5 hours.

   The DWC finds the requestor did not bill in accordance with NCCI Policy Manual, Chapter 11, (M)(2), because "procedures described by CPT codes 96130-96139 are timed procedures, physicians shall not report time for duplicating information (collection or interpretation) included in the psychiatric diagnostic interview examination and/or psychological/neuropsychological evaluation services or test administration and scoring." The report does not list the start and end time of time procedure codes 96132, 96133, 96136 and 96137 to support the number of hours billed. The requestor has not supported request for additional reimbursement of code 96133.

Conclusion

For the reasons stated above, the DWC finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is $0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the DWC has determined that the requestor is entitled to $0.00 reimbursement for the disputed services.

Authorized Signature

		11/10/2020
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 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.