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
GABRIEL JASSO, PHD

Respondent Name
BITCO GENERAL INSURANCE CORP

MFDR Tracking Number
M4-21-0571-01

Carrier's Austin Representative
Box Number 19

MFDR Date Received
NOVEMBER 30, 2020

REQUESTOR'S POSITION SUMMARY

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

Amount in Dispute: $948.36

RESPONDENT'S POSITION SUMMARY

"The provider billed the amount of $3,924.44. Under CPT code 96133, he billed the amount of $1,573.20 and has acknowledged payment of $1,224.58. He is seeking additional reimbursement of $348.62. Under CPT code 96137, he billed $1,425.95 and was paid $826.21. He is seeking additional reimbursement of $599.74. The total amount being requested is $948.36…It is the carrier's position that the provider has already been paid the amount to which he is entitled. No additional reimbursement should be awarded."

Respondent's Supplemental Response: "The provider has already been reimbursed $2,976.68. The provider is not entitled to any additional reimbursement under CPT Codes 96133 and 96137, which are the only two CPT Codes that the provider is seeking additional reimbursement."

Response Submitted By: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
March 25, 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	$0.00	$0.00
	CPT Code 96121 (X3) 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	$0.00	$0.00

	physician or other qualified health care professional, both face-to-face time with the patient and time interpreting test results and preparing the report; each additional hour (List separately in addition to code for primary procedure)		
	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	$0.00	$0.00
	CPT Code 96133 (X9) 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)	$348.62	$0.00
	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	$0.00	$0.00
	CPT Code 96137 (X19) 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)	$599.74	$0.00
TOTAL		$948.36	$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. The services in dispute were reduced / denied by the respondent with the following claim adjustment reason codes:
   - RAI-Medical Unlikely Edits, DOS exceeds MUE value.
   - P13-Payment reduced/denied based on state WC regs/policies.
   - W3-Appeal/Reconsideration.

Issues

Is the requestor entitled to additional reimbursement for professional services rendered on March 25, 2020?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of $948.36 for CPT codes 96133 and 96137 rendered on March 25, 2020.

2. The respondent reduced payment for the disputed services based upon “RAI-Medical Unlikely Edits, DOS exceeds MUE value.”
3. The DWC refers to the following statutes to determine the appropriate reimbursement:

   - 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.” 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.”
   - Texas Labor Code 413.14(e) states, “If a specified health care treatment or service is preauthorized as provided by this section, that treatment or service is not subject to retrospective review of the medical necessity of the treatment or service.”
   - 28 TAC §134.600(f)2-4) states, “The requestor or injured employee shall request and obtain preauthorization from the insurance carrier prior to providing or receiving health care listed in subsection (p) of this section. Concurrent utilization review shall be requested prior to the conclusion of the specific number of treatments or period of time preauthorized and approval must be obtained prior to extending the health care listed in subsection (q) of this section. The request for preauthorization or concurrent utilization review shall be sent to the insurance carrier by telephone, facsimile, or electronic transmission and, include the:

     (2) specific health care listed in subsection (p) or (q) of this section;
     (3) number of specific health care treatments and the specific period of time requested to complete the treatments;
     (4) information to substantiate the medical necessity of the health care requested.”

   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 Medicare’s MUE payment policy is in direct conflict with Texas Labor Code §413.014 and 28 TAC §134.600 which sets out the procedures for preauthorization of specific services. The DWC concludes that Texas Labor Code §413.014 and Rule §134.600 take precedence over Medicare MUEs. Neither party to the dispute submitted the preauthorization report to support the number of specific health care treatments and the specific period to support denial; therefore, the disputed services will be reviewed per the fee guideline.

4. On the disputed date of service, the requestor billed CPT codes 96116, 96121, 96132, 96133, 96136 and 96137.

   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 9613096139 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 24 hours of examination and testing on the disputed date of service. The report noted that the claimant underwent

Neuropsychological testing evaluation services: 10 hours; Examinee Interview & Neurobehavioral/Mental Status Exam: 4 hour; Neuropsychological Testing and Scoring: 10 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; therefore, reimbursement cannot be recommended.

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

Signature	Medical Fee Dispute Resolution Officer	12/30/2020 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.