



# 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**

St Joseph Medical Center

**Respondent Name**

Sentry Casualty Co

**MFDR Tracking Number**

M4-21-1069-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

March 1, 2021

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "The purpose of this letter is to inform you that payment for services provided to the above referenced patient does not comply with Chapters 134.403 and 134.404 of Texas Administrative Code 134.403 and 134.404 of Texas Administrative Code."

**Amount in Dispute:** \$1,258.34

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The provider submitted implant invoices, so we reimbursed them separately at invoice cost + 10%. CPT 25609 was then priced at the adjusted ASC amount x 130% per rule 134.403 (f)(B)."

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
September 23, 2020	Outpatient Hospital Services	\$1,258.34	\$1,257.85

### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.403 sets out the reimbursement guidelines for outpatient hospital services.
- The insurance carrier reduced or denied the payment for the disputed services with the following claim adjustment codes:
  - P12 – Workers' compensation jurisdictional fee schedule adjustment
  - 353 – This charge was reviewed per the attached invoice
  - 370 – This hospital outpatient allowance was calculated according to the APC rate, plus a markup

- 45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement

### Issues

1. What is the applicable rule for determining reimbursement for the disputed services?
2. Is the requestor entitled to additional reimbursement?

### Findings

1. The requestor is seeking additional reimbursement in the amount \$1,258.34 for outpatient hospital services rendered on September 23, 2020. The insurance carrier reduced the disputed services based on the fee schedule and the submission of implant invoices.

28 TAC §134.403 (f) (1) (B) states a facility or surgical implant provider **requests** separate reimbursement and 28 TAC §134.403 (g) (1) states a facility or surgical implant provider billing separately for an implantable shall include with the billing a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge." Review of the submitted documentation found insufficient evidence to support the requestor sought separate reimbursement for the implants. The insurance carrier's reduction is not supported. The service in dispute will be reviewed per applicable fee guidelines.

2. 28 TAC §134.403 (d) requires Texas workers' compensation system participants when coding, billing, reporting and reimbursement to apply Medicare payment policies in effect on the date of service.

The Medicare payment policy applicable to the services in dispute is found at [www.cms.gov](http://www.cms.gov), Claims processing Manual, Chapter 4, Section 10.1.1. Specifically, Payment Status Indicators and Ambulatory Payment Category (APC).

28 TAC 134.403 (f) states in pertinent part the reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register*..

The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 143 percent when a separate request for implant reimbursement is not made and 130 percent when separate reimbursement for implants is made.

The Medicare facility specific amount is calculated when the APC payment rate is multiplied by 60% to determine the labor portion. This amount is multiplied by the facility wage index for the date of service. The non-labor amount is determined when the APC payment rate is multiplied by 40%. The sum of the labor portion multiplied by the facility wage index and the non-labor portion determines the Medicare specific amount. Review of the submitted medical bill and the applicable fee guidelines referenced above is shown below.

- Procedure code 25609 has status indicator J1 a comprehensive procedure with all other billed services bundled into this allowable for this procedure.

The APC is 5114, the OPPS Addendum A rate is \$5,981.95. This is multiplied by 60% for an unadjusted labor amount of \$3,589.17, in turn multiplied by facility wage index 1.0021 for an adjusted labor amount of \$3,596.71.

The non-labor portion is 40% of the APC rate, or \$2,392.78.

The sum of the labor and non-labor portions is \$5,989.49.

The Medicare facility specific amount is \$5,989.49. This is multiplied by 200% for a MAR of \$11,978.98.

3. The total recommended reimbursement for the disputed services is \$11,978.98. The insurance carrier paid \$10,721.13. The amount due is \$1,257.85. This amount is recommended.

**Conclusion**

In resolving disputes over reimbursement for medically necessary health care to treat a compensable injury, the role of DWC is to adjudicate payment following Texas laws and DWC rules. The findings in this decision are based on the evidence available at the time of review. Even though not all the evidence was discussed, it was considered.

For the reasons above the requestor has not established payment is due. As a result, the amount ordered is \$1,257.85.

***ORDER***

In accordance with Texas Labor Code Section 413.031 and 413.019 (if applicable) and based on the submitted information, DWC finds the requestor is entitled to additional reimbursement. DWC hereby ORDERS the respondent to remit to the requestor \$1,257.85, plus accrued interest per Rule §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

		March 19, 2021
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 Rule §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 DWC within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to 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. **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.**