



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

GRANT GILLIAND, MD

Respondent Name

INDEMNITY INSURANCE CO OF NORTH AMERICA

MFDR Tracking Number

M4-21-1358-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

APRIL 6, 2021

REQUESTOR'S POSITION SUMMARY

"They have agreed to pay \$25,000.00 as a discounted rate for his surgery. If not paid within 7 days after surgery the rate will be 100% of billed charges plus any collection and attorney fees."

Amount in Dispute: \$19,791.04

RESPONDENT'S POSITION SUMMARY

Position Summary dated April 20, 2021: "We will provided a supplemental response once the bill audit company has finalized their review."

Position Summary dated June 30, 2021: "Our bill audit company has determined no further payment is due."

Response Submitted by: Gallagher Bassett

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Rows include CPT codes (67400-LT, 65105-LT, 68326-LT, 67343-LT, 67042-LT) and a TOTAL row.

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 (DWC).

## Background

1. 28 Texas Administrative Code (TAC) §133.307, effective February 22, 2021, sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. The services in dispute were reduced/denied by the respondent with the following reason code:
  - P12, 00223-Workers' compensation jurisdictional fee schedule adjustment.
  - 6176-Reimbursement is based on the physician fee schedule when a professional service was performed in a facility setting.
  - 5323-Procedure denied per CPT 'separate procedure' rule.

## Issues

Is the requestor entitled to additional reimbursement for CPT codes 67400-LT, 65105-LT, 68326-LT, 67343-LT, and 67042-LT rendered on October 14, 2020?

## Findings

1. The requestor is seeking medical dispute resolution in the amount of \$19,791.04 for CPT codes 67400-LT, 65105-LT, 68326-LT, 67343-LT, and 67042-LT rendered on October 14, 2020.
2. The requestor wrote, "They have agreed to pay \$25,000.00 as a discounted rate for his surgery." The requestor did not submit a copy of the agreement to support position.
3. The respondent denied reimbursement for CPT code 67343 based upon "5323-Procedure denied per CPT 'separate procedure' rule." The respondent wrote in the position summary regarding CPT code 67343 that "67343 is a separate procedure per CPT. 67343 Would only be allowed if procedure was carried out independently or considered to be unrelated or distinct from the other procedures performed."

28 TAC §134.203(b) 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..."

CPT code 67343 is described as "Release of extensive scar tissue without detaching extraocular muscle (separate procedure)."

The National Correct Coding Initiative Policy Manual for Medicare Services Chapter 1, (J), effective January 1, 2020, defines separate procedure as,

If a CPT code descriptor includes the term "separate procedure", the CPT code may not be reported separately with a related procedure. CMS interprets this designation to prohibit the separate reporting of a "separate procedure" when performed with another procedure in an anatomically related region often through the same skin incision, orifice, or surgical approach.

A CPT code with the "separate procedure" designation may be reported with another procedure if it is performed at a separate patient encounter on the same date of service or at the same patient encounter in an anatomically unrelated area often through a separate skin incision, orifice, or surgical approach. Modifiers 59 or -X{ES} (or a more specific modifier, e.g., anatomic modifier) may be appended to the "separate procedure" CPT code to indicate that it qualifies as a separately reportable service."

The Division finds that because code 67343 has the parenthetical statement "separate procedure" the CCI policy applies. The disputed procedures were performed on the same anatomically related region (left eye); therefore, 67343 cannot be reported with the other codes. The requestor did not append

modifier 59 to indicate that it qualifies as a separately reportable service. As a result, reimbursement is not recommended.

4. The respondent paid \$5,208.96 for CPT codes 67400-LT, 65105-LT, 68326-LT, and 67042-LT based upon the fee guideline.

The fee guidelines for disputed service is found in 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 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."

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

The place of service is 21-Inpatient Hospital.

The 2020 DWC Conversion Factor is 75.70

The 2020 Medicare Conversion Factor is 36.0896

Per the CMs 1500, the services were rendered in Dallas, TX; therefore, the Medicare locality is "Dallas, Texas".

Using the above formula, the DWC finds the following:

Code	Medicare Participating Amount	Multiple Procedure Discount of 50%	MAR	Insurance Carrier Paid	Amount Due
67400	\$1,033.99	Yes	\$2,126.90 X 50% = \$1,063.45	\$1,063.45	\$0.00
65105	\$930.23	Yes	\$1,951.21 X 50% = \$975.61	\$975.61	\$0.00
68326	\$661.84	Yes	\$1,388.25 X 50% = \$694.12	\$694.13	\$0.00
67042	\$1,180.31	No	\$2,475.77	\$2,475.77	\$0.00

The DWC finds the requestor is not entitled to additional reimbursement for CPT codes 67400-LT, 65105-LT, 68326-LT, and 67042-LT rendered on October 14, 2020.

### **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 on the submitted information, pursuant to Texas Labor Code Section 413.031, the division hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
Date

07/08/2021

**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, 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 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.**