



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

PROFESSIONAL EXAMS SERVICES, INC
BOB L.GANT, PHD

Respondent Name

BITCO GENERAL INSURANCE CORP

MFDR Tracking Number

M4-21-1404-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

APRIL 8, 2021

REQUESTOR'S POSITION SUMMARY

"Attached is a completed CMS 1500 claim form along with the completed Neuropsychological Evaluation report. The form and narrative report resulted from a referral by a Designated Doctor in the course of conducting a state ordered Designated Doctor Examination."

Amount in Dispute: \$1,150.42

RESPONDENT'S POSITION SUMMARY

"It is the carrier's position that no additional reimbursement is owed."

Response Submitted By: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 24, 2020	CPT Code 96133 (X11) 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)	\$699.76	\$0.00
	CPT Code 96137 (X17) 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)	\$450.66	\$0.00
TOTAL		\$1,150.42	\$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 February 22, 2021, sets out the procedures for resolving medical fee disputes.
2. 28 TAC §127.10 effective September 1, 2012 sets out the Designated Doctor procedures and requirements.
3. 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
4. The services in dispute were reduced / denied payment by the respondent with the following claim adjustment reason codes:
 - 97A-Provider appeal
 - P13-Payment reduced/denied based on state WC regs/policies.
 - RAI-Medically unlikely edits; dos exceeds MUE value.
 - Per MUE edits only 7 units are allowed to be billed per patient encounter session. No additional allowance recommended.
 - Per MUE edits only 11 units are allowed to be billed per patient encounter session. No additional allowance recommended.
 - P12-Workers' compensation jurisdictional fee schedule adjustment.
 - 18-Duplicate claim/service.
 - R1-Duplicate billing.

Background

Is the requestor entitled to additional reimbursement for psychological services rendered on November 24, 2020?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$1,150.42 psychological exam and services rendered on November 24, 2020.
2. The respondent reduced payment of CPT codes 96133 and 96137 based upon MUEs.

The DWC finds the denial refers to a Medicare payment policy regarding Medically Unlikely Edit (MUE). MUE's were implemented by Medicare in 2007. MUE's set a maximum number of units for a specific service that a provider would report under most circumstances for a single patient on a single date of service. Medicare developed MUE edits to detect potentially medically unnecessary services.

Although the DWC adopts Medicare payment policies by reference in applicable Rule §134.203, paragraph (a)(7) of that rule states that specific provisions contained in the Division of Workers' Compensation rules shall take precedence over any conflicting provision adopted the Medicare program.

28 TAC §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)."

The Medicare MUE payment policy is in direct conflict with Texas Labor Code §413.014 which requires that all determinations of medical necessity shall be made prospectively or retrospective through utilization review; and with Rule §127.10 which prohibits the retrospective review based upon medical necessity. The DWC concludes that Labor Code §413.014 and 28 TAC §127.10 take precedence over Medicare MUE's; therefore, the respondent's denial reasons are not supported.

3. The respondent also reduced payment based upon the fee guideline.

To determine if the respondent's reduction of payment is supported, 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."

On the disputed date of service, the requestor billed CPT codes CPT codes 96116, 96121, 96132, 96133, 96136, and 96137. As noted from the code descriptors, all of these codes are timed procedures.

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 DWC finds the requestor billed for twenty-three hours of service with CPT codes 96116, 96121, 96132, 96133, 96136, and 96137 on November 24, 2020. 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 Neuropsychological Evaluation 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 codes 96133 and 96137.

Conclusion

The DWC finds that the requestor has waived the right to medical fee dispute resolution for the services in dispute, as addressed in 28 TAC §133.307(c)(1) and (c)(1)(A). For that reason, the merits of the issues raised by the parties to this dispute for those dates have not been addressed.

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 services in dispute.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

5/03/2021
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.