



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

Baylor Orthopedic & Spine Hospital

Respondent Name

Texas Mutual Insurance Co

MFDR Tracking Number

M4-21-1424-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

April 13, 2021

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Per the EOB payment has been denied for CPT code 97116 and 97161 indicating that the CPT codes are inclusive to 28415, however we disagree. Per the NCCI Edits Manual the CPT codes 97116 and 97161 are separately payable and payment is expected to be warranted. Also CPT 28415 is surgical and should be paid at FS/EXR 8 200%."

Amount in Dispute: \$540.50

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The Austin carrier representative for Texas Mutual insurance is Texas Mutual Insurance who was notified of this medical fee dispute on April 20, 2021. Rule §133.307(d)(1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

As of today, no response has been received from the carrier or its representative. This decision is based on the information available as authorized under §133.307(d)(1).

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
September 10-11, 2020	Outpatient Hospital Services	\$540.50	\$0.00

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
- 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated
- 370 – This hospital outpatient allowance was calculated according to the APC rate plus a markup
- 638 – The value of this procedure is packaged into the payment of other service performed on the same date of service

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 \$540.50 for outpatient hospital services rendered in September 2020. The insurance carrier reduced the disputed services based on packaging.

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, 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 for the services listed on the DWC060.

- Procedure code 28415 has status indicator J1, for procedures paid at a comprehensive rate. **All covered services on the bill are packaged with the primary "J1" procedure.**

This code is assigned APC 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 0.9707 for an adjusted labor amount of \$3,484.01.

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

The sum of the labor and non-labor portions is \$5,876.79.

The Medicare facility specific amount is \$5,876.79.

This is multiplied by 200% for a MAR of \$11,753.58.

- Procedure code 97116 is bundled into the J1 comprehensive procedure 28415.
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- Procedure code 97161 is bundled into the J1 comprehensive procedure 28415.
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2. The total recommended reimbursement for the disputed services is \$11,753.58. The insurance carrier paid \$11,817.46. Additional payment is not 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 \$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

June 17, 2021

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.