



# 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**

NUEVA VIDA BEHAVIORAL HEALTH

**Respondent Name**

XL INSURANCE AMERICA INC

**MFDR Tracking Number**

M4-21-1426-01

**Carrier's Representative**

Box Number 19

**MDR Received Date**

April 13, 2021

**Response Submitted by:**

CORVEL

#### REQUESTOR'S POSITION SUMMARY

"According to Texas Medical Fee Guidelines, the CPT code 96158/96159 considers psychological interventions as necessary to address non-compliance with the treatment plan, and/or the psychological, behavioral, emotional, cognitive, or social factors associated with a newly diagnosed medical condition or an exacerbation of an established medical condition when such factors affect symptom management and expression and health promoting behaviors. Further, the Health and Behavior Intervention (96158/96159) is described as an individual session that does not require pre-authorization."

#### RESPONDENT'S POSITION SUMMARY

"Services were not denied for medical necessity. Services were denied as preauthorization is required for psychotherapy services."

#### SUMMARY OF FINDINGS

Date(s) of Service	Disputed Service(s)	Amount in Dispute	Amount Due
July 1, 2020 through January 8, 2021	96158 and 96159	\$1,321.75	\$1,321.75

#### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code (TLC) §413.031 and all-applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

#### Background

- 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
- 28 TAC §134.600 sets out the guidelines for preauthorization, concurrent review, and voluntary certification of healthcare.
- 28 TAC §134.203 sets out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.
- The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 197 – Payment denied/reduced for absence of precertification/authorization
  - 107 – Denied – qualifying svc not paid or identified
  - 97A – Provider appeal

#### Issues

- What is the definition of CPT Codes 96158 and 96159?
- Did the requestor obtain preauthorization for the disputed services?
- Is the requestor entitled to reimbursement?

**Findings**

1. The requestor billed CPT Code(s) 96158 and 96159 rendered on July 1, 2020 through January 8, 2021. The insurance carrier in the position summary states in pertinent part, “Services were denied as preauthorization is required for psychotherapy services.”

28 TAC §134.203 (b) states in pertinent part, “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.”

CPT Code 96158 is defined as “Health behavior intervention, individual, face-to-face; initial 30 minutes.”

CPT Code 96159 is defined as “Health behavior intervention, individual, face-to-face; each additional 15 minutes.”

The disputed services are considered health and behavior assessment and intervention services.

2. The insurance carrier denied the disputed services with reason codes 197 (description provided above).

28 TAC §134.600 (c) (1) (B) states in pertinent part, “(c) The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur... (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care...”

28 TAC §134.600 (p) (7) states in pertinent part “(p) Non-emergency health care requiring preauthorization includes: (7) all psychological testing and psychotherapy, repeat interviews, and biofeedback, except when any service is part of a preauthorized return-to-work rehabilitation program...”

The DWC finds that CPT Codes 96158 and 96159 do not require preauthorization per 28 TAC §134.600 (p)(7). As a result, reimbursement is determined per 28 TAC §134.203.

3. 28 TAC §134.203 (c) states in pertinent part, “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 outlines the fee guideline for the services in dispute.

Date of service	CPT Code	# Units	Amount Sought	MAR	Amount Recommended
7/1/2020	96158	1	\$93.50	\$111.82	\$93.50
	96819	1	\$38.25	\$38.99	\$38.25
8/6/2020	96158	1	\$93.50	\$111.82	\$93.50
	96819	2	\$76.50	\$77.99	\$76.50
8/20/2020	96158	1	\$93.50	\$111.82	\$93.50
	96819	2	\$76.50	\$77.99	\$76.50
9/18/2020	96158	1	\$93.50	\$111.82	\$93.50
	96819	2	\$76.50	\$77.99	\$76.50
10/9/2020	96158	1	\$93.50	\$111.82	\$93.50
	96819	2	\$76.50	\$77.99	\$76.50
10/23/2020	96158	1	\$93.50	\$111.82	\$93.50
	96819	2	\$76.50	\$77.99	\$76.50
11/6/2020	96158	1	\$93.50	\$111.82	\$93.50
	96819	2	\$76.50	\$77.99	\$76.50
1/8/2021	96158	1	\$93.50	\$114.44	\$93.50
	96819	2	\$76.50	\$78.96	\$76.50
<b>TOTAL</b>		<b>23</b>	<b>\$1,321.75</b>	<b>\$1,483.07</b>	<b>\$1,321.75</b>

Review of the submitted documentation finds that the requestor is entitled to reimbursement in the amount of \$1,321.75. Therefore, this amount is recommended.

**Conclusion**

For the reasons stated above, the DWC finds that the requestor has established that reimbursement in the amount of \$1,321.75 is due. As a result, the amount ordered is \$1,321.75.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of TLC Sections 413.031 and 413.019 (if applicable), the DWC has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The DWC hereby ORDERS the respondent to remit to the requestor the amount of \$1,321.75 plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Date

May 21, 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 TAC §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 TAC §141.1(d).

***Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.***