



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

RAJESH GUTTA MD

Respondent Name

BERKLEY NATIONAL INSURANCE COMPANY

MFDR Tracking Number

M4-21-1556-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

May 4, 2021

Response Submitted by:

No response submitted

REQUESTOR'S POSITION SUMMARY

"This is to bring it to your kind notice that the above-stated date of service claim was initially submitted to Care Works electronically on 11/10/2020 (Proof Attached). When we followed-up for the claim status, we realized that the claim was not on file."

RESPONDENT'S POSITION SUMMARY

The Austin carrier representative for Berkley National Insurance Company is Flahive Ogden & Latson. Flahive Ogden & Latson was notified of this medical fee dispute on May 11, 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. We therefore base this decision on the information available as authorized under §133.307(d)(1).

SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount in Dispute	Amount Due
November 6, 2020	11044, 20680 x 2	\$2,603.97	\$385.67

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code (TLC) §413.031 and applicable 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 §134.203, effective March 1, 2008, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers' compensation system
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - P12 – Workers' compensation jurisdictional fee schedule adjustment
 - 59 - Processed based on multiple or concurrent procedure rules

Issue(s)

Is the requestor entitled to additional reimbursement?

Findings

1. The requestor seeks reimbursement for CPT Codes 11044, 20680 x 2, rendered on November 6, 2020. The insurance carrier issued a payment in the amount of \$1,770.03 and denied the remaining charges with denial reduction codes P12 and 59 (description provided above). The requestor seeks an additional payment in the amount of \$1,018.83.

Review of the submitted documentation finds that the disputed services were preauthorized and therefore subject to review pursuant to 28 TAC 134.203.

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

2. 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."

The Division completed NCCI edits to determine NCCI edit conflicts that could affect reimbursement. The requestor billed the following CPT Codes: 20680, 20680 and 11044.

Per Medicare CCI Guidelines, procedure code 11044 has an unbundle relationship with history procedure code 20680. Review of the documentation did not identify that a modifier was appended, as a result reimbursement cannot be recommended for this CPT Code.

3. 28 TAC §134.203 states in pertinent part, "(c) 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..."

Review of the Medicare Claims Processing Manual, Chapter 12 - Physicians/Nonphysician Practitioners, section 40.6 - Claims for Multiple Surgeries, CMS defines multiple surgeries as separate procedures performed by a single physician or physicians in the same group practice on the same patient at the same operative session or on the same day for which separate payment may be allowed. Per CMS, multiple surgeries are reimbursed as follows:

- 100 percent of the fee schedule amount (Field 34 or 35) for the highest valued procedure; and
- 50 percent of the fee schedule amount for the second through the fifth highest valued procedures

Medicare pays for multiple surgeries by ranking from the highest MPFS amount to the lowest MPFS amount. When the same physician performs more than one surgical service at the same session, the allowed amount is 100% for the surgical code with the highest MPFS amount. The allowed amount for the subsequent surgical codes is based on 50% of the MPFS amount. To determine which surgeries are subject to the multiple surgery rules, you review the rank assigned by Medicare for each surgery code. Review of the Medicare MPFS documents the following rank for the surgery codes billed by the requestor:

CPT Code 20680 has a rank indicator of "2" as a result, "Base payment for each ranked procedure code on the lower of the billed amount: 100% of the fee schedule amount for the highest valued procedure; and 50% of the fee schedule amount for the second through the fifth highest valued procedure."

Using the formula in 28 TAC §134.203 (c), the MAR for CPT Code 20680 at 100% of the MAR is \$1,265.46, the insurance carrier issued a payment in the amount of \$1,008.35, therefore the requestor is entitled to additional reimbursement in the amount of \$257.11

Using the formula in 28 TAC §134.203 (c), the MAR for CPT Code 20680 at 50% of the MAR is \$632.73, the insurance carrier issued a payment in the amount of \$504.17, therefore the requestor is entitled to additional reimbursement in the amount of \$128.56.

4. Review of the submitted documentation finds that the requestor is entitled to a total reimbursement in the amount of \$385.67.

Conclusion

For the reasons stated above, the DWC finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$385.67.

ORDER

_____	_____	June 29, 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 28 TAC §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 TAC §141.1(d).

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