



# 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**

TEXAS SURGICAL CENTER

**Respondent Name**

CITY OF MIDLAND

**MFDR Tracking Number**

M4-21-1905-01

**Carrier's Austin Representative**

Box Number 04

**MFDR Date Received**

JUNE 25, 2021

#### REQUESTOR'S POSITION SUMMARY

"At this time we are requesting that this claim paid in accordance with the 2021 Texas Workers Compensation Fee Schedule and Guidelines for Ambulatory Surgical Centers."

**Amount in Dispute:** \$2,972.61

#### RESPONDENT'S POSITION SUMMARY

"Payment in the amount of \$5,875.80 was issued on 5/21/2021...after further review, the original payment was maintained."

**Response Submitted by:** Claims Administrative Services, Inc.

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 22, 2021	Ambulatory Surgical Care Services (ASC) CPT Code 27822-LT	\$2,916.21	\$71.24
	ASC CPT Code 64447-LT-59	\$56.40	
TOTAL		\$2,972.61	\$71.24

#### 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 §133.307, effective May 31, 2012, sets out the procedures for resolving medical fee disputes.

2. 28 TAC §134.402, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
3. The insurance carrier reduced/denied payment for the disputed services with the following claim adjustment codes:
  - P12-Workers' compensation jurisdictional fee schedule adjustment.
  - 618-The value of this procedure is packaged into the payment of other services performed on the same date of service.
  - 236-This procedure or procedure/modifier combination is not compatible with another procedure or procedure/modifier combination provided on the same day according to the NCCI or Workers compensation state regulations/fee schedule requirements.
  - 435-Per NCCI Edits, the value of this procedure is included in the value of the comprehensive procedure.
  - 790-This charge was reimbursed in accordance to the Texas medical fee guideline.
  - W3-In accordance with TDI-DWC rule 134.804, this bill has been identified as a request for reconsideration or appeal.
  - 350-Bill has been identified as a request for reconsideration or appeal.

### **Issues**

Is the requestor entitled to additional reimbursement for ASC services related to CPT code 27822-LT and 64447-LT-59 rendered on April 22, 2021?

### **Findings**

1. The requestor is seeking medical fee dispute resolution in the amount of \$2,972.61 for ASC services related to CPT code 27822-LT and 64447-LT-59 rendered on April 22, 2021.
2. The respondent paid \$5,875.80 for CPT code 27822-LT based upon the fee guideline. The requestor contends that additional payment of \$2,916.21 is due.
3. The fee guidelines for disputed services is found in 28 TAC §134.402.
4. To determine the appropriate reimbursement for CPT codes 27822 the DWC refers to 28 TAC §134.402(f). Per ADDENDUM AA, CPT codes 27822 is a device intensive procedure.

28 TAC §134.402(f)(2)(A)(i)(ii) states,

The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the *Federal Register*. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the *Federal Register*, or its successor. The following minimal modifications apply:  
 (2) Reimbursement for device intensive procedures shall be: (A) the sum of: (i) the ASC device portion; and (ii) the ASC service portion multiplied by 235 percent."

The following formula was used to calculate the MAR:

- Step 1 calculating the device portion of the procedure:

The national reimbursement is found in the Addendum B for National Hospital Outpatient Prospective Payment System (OPPS) code 27822 for CY 2021 = \$6,264.95

The device dependent APC offset percentage for National Hospital OPPS found in Addendum P for code 27822 for CY 2021 is 34.48%

Multiply these two = \$2,160.15

- Step 2 calculating the service portion of the procedure:

Per Addendum AA, the Medicare ASC reimbursement rate for code 27822 for CY 2021 is \$3,943.38.

This number is divided by 2 = \$1,971.69.

This number multiplied by the City Wage Index for Midland, Texas of 0.9007 = \$1,775.90.

The sum of these two is the geographically adjusted Medicare ASC reimbursement = \$3,747.59.

The service portion is found by taking the geographically adjusted rate minus the device portion = \$1,587.44.

Multiply the service portion by the DWC payment adjustment of 235% = \$3,730.49.

- Step 3 calculating the MAR:

The MAR is determined by adding the sum of the reimbursement for the device portion and the service portion = \$5,890.64.

The DWC finds the MAR for CPT code 27822 is \$5,890.64.

5. The respondent denied reimbursement for CPT code 64447-LT-59 based upon the allowance of the procedure is included in the allowance of CPT code 27822.

28 TAC §134.402(b) (6) states,

Definitions for words and terms, when used in this section, shall have the following meanings, unless clearly indicated otherwise. "Medicare payment policy" means 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 §134.402(d) states,

For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section, including the following paragraphs.

Per ADDENDUM AA, CPT code 64447 is a status P3 code.

Per ADDENDUM DD1, Final ASC Payment Indicators for CY 2021, P3 indicator is defined as "Office-based surgical procedure added to ASC list in CY 2008 or later with MPFS nonfacility PE RVUs; Payment based on MPFS nonfacility PE RVUs."

28 TAC §134.402(h) states,

For medical services provided in an ASC, but not addressed in the Medicare payment policies as outlined in subsection (f) of this section, and for which Medicare reimburses using other Medicare fee schedules, reimbursement shall be made using the applicable Division Fee Guideline in effect for that service on the date the service was provided.

28 TAC §134.203(c)(1) states,

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.

28 TAC §134.203(c)(2) states,

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 Medicare Payment = Maximum Allowable Reimbursement (MAR).

- The DWC conversion factor for 2021 is 61.17.
- The Medicare conversion factor for 2021 is 34.8931.
- Review of Box 32 on the CMS-1500 finds that the services were rendered in zip code 79706 which is located in Midland, Texas; therefore, the Medicare locality is “Rest of Texas.”
- The carrier code for Texas is 4412 and the locality code for Rest of Texas is 99.
- The Medicare participating amount for CPT code 64447 at this locality is \$93.06.

Using the above formula, the MAR is \$155.20 or less. The requestor is seeking \$56.40.

The DWC finds the MAR for ASC services rendered on April 22,2021 is \$5,947.04. The respondent paid \$5,875.80. The DWC finds the requestor is due reimbursement of \$71.24.

### **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 \$71.24.

### ***ORDER***

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the DWC has determined the requestor is entitled to additional reimbursement for the disputed services. The DWC hereby ORDERS the respondent to remit to the requestor \$71.24, 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

07/22/2021

### ***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 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. **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.**