



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Baylor Surgicare at Blue Star

Respondent Name

American Zurich Insurance Co

MFDR Tracking Number

M4-21-1920-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

June 29, 2021

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 22, 2020	27429	\$7,602.96	\$0.00
December 22, 2020	64712	\$9.05	\$0.00
December 22, 2020	64447	\$58.68	\$0.00
Total		\$7,670.68	\$0.00

Requestor's Position

At this time we are requesting that this claim paid in accordance with the 2020 Texas Workers Compensation Fee Schedule and Guidelines for Ambulatory Surgical Centers.

Amount in Dispute: \$7,670.68

Respondent's Position

The Austin carrier representative for American Zurich Insurance Co is Flahive Ogden & Latson. The representative was notified of this medical fee dispute on July 7, 2021.

Per 28 Texas Administrative Code §133.307(d)(1), if the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the available

information.

As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

Findings and Decision

Authority

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

Statutes and Rules

1. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.402 sets out the fee guidelines for ambulatory surgical centers.

Denial Reasons

The insurance carrier [reduced or denied] the payment for the disputed services with the following claim adjustment codes:

- 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
- 59 – Processed based on multiple or concurrent procedure rules
- P12 – Workers' compensation jurisdictional fee schedule adjustment

Issues

1. Is the insurance carriers' denial supported?
2. What rule applies for determining reimbursement for the disputed services?
3. Is the requester entitled to additional reimbursement?

Findings

1. The insurance carrier denied Code 64447 - 59 based on NCCI edits. DWC Rule 28 TAC §134.402 (d) requires system participants to apply the Medicare payment policies in effect on the date a service is provided. The 59 modifier is used to indicate Under certain circumstances, it may be necessary to indicate that a procedure or service was distinct or independent from other non-E/M services performed on the same day. Modifier 59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances. Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision. Review of the submitted medical

record found insufficient evidence to support the disputed service Code 64447 (Injection(s), anesthetic agent(s) and/or steroid; femoral nerve was distinct or independent from Code 27429 (Ligamentous reconstruction (augmentation), knee; intra-articular (open) and extra-articular. The insurance carrier's denial is supported no additional payment is recommended.

The remaining services will be reviewed per applicable fee guidelines.

2. DWC Rule 28 TAC §134.402 (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 10.1.2 specifically Ambulatory Surgical Center Services on ASC list. Beginning with the implementation of the 2008 revised payment system, the labor related adjustments to the ASC payment rates are based on the Core-Based Statistical Area (CBSA) methodology. Payment rates for most services are geographically adjusted using the pre-reclassification wage index values that CMS uses to pay non-acute providers. The adjustment for geographic wage variation will be made based on a 50 percent labor related share.

DWC Rule 28 TAC §134.402 (f) states in pertinent part 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 published in the Federal Register. Reimbursement for device intensive procedures shall be the sum of the ASC device portion and the ASC service portion multiplied by 235 percent.

The following formula was used to calculate the MAR:

Procedure Code 27429 has a payment indicator of J8. This is a device intensive procedure paid at an adjusted rate. 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 27429 for CY 2020 = \$11,900.71
- The device dependent APC offset percentage for National Hospital OPPS found in Addendum P for code 27429 for CY 2020 is 43.82%
- Multiply these two = \$5,214.89

Step 2 calculating the **service portion** of the procedure:

- Per Addendum AA, the Medicare ASC reimbursement rate for code 27429

for CY 2020 is \$10,113.69.

- This number is divided by 2 = \$5056.85.
- This number multiplied by the City Wage Index for Frisco, Texas of 0.9683 = \$4,896.55.
- The sum of these two is the geographically adjusted Medicare ASC reimbursement = \$9,953.40.
- The service portion is found by taking the geographically adjusted rate minus the device portion = \$4,738.51.
- Multiply the service portion by the DWC payment adjustment of 235% = \$11,135.50.

Step 3 calculating the MAR:

- The MAR is determined by adding the sum of the reimbursement for the device portion and the service portion = \$16,350.39.

Procedure Code 64712 has a payment indicator of G2. This procedure is subject to multiple procedure discount. The MAR will be reduced by 50%. DWC Rule 28 TAC 134.402 (f) (2) states in pertinent part reimbursement for non-device intensive procedures shall be the Medicare ASC facility reimbursement amount multiplied by 235 percent. The following formula was used to calculate the MAR:

- The Medicare ASC reimbursement for code 64712 CY 2020 is \$796.79.
- The Medicare ASC reimbursement is divided by 2 = \$398.40.
- This number multiplied by the City Wage Index for Frisco, Texas of 0.9683 = \$385.77.
- Add these two together = \$784.17.
- To determine the MAR, multiply the geographically adjusted Medicare ASC reimbursement by the DWC payment adjustment factor of 235% = \$1,842.80 reduced by 50% is \$921.40.

3. The DWC finds the MAR for CPT code 27429 is \$16,350.39. The respondent paid \$16,426.41. No additional payment is recommended. Procedure code 64712 has a MAR of \$921.40. The respondent paid \$924.39. No additional payment is due.

Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requester has not established that additional reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is not entitled to additional reimbursement for the disputed services.

Authorized Signature

_____	_____	October 8, 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 under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the instructions on the form. You can find the form at www.tdi.texas.gov/forms/form20numeric.html. DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, please call CompConnection at 1-800-252-7031, option 3 or email CompConnection@tdi.texas.gov.

The party seeking review of the MFDR decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** with any other required information listed in 28 TAC §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, opción 3 o correo electrónico CompConnection@tdi.texas.gov.