



# 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**

M4-21-1929-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

June 29, 2021

### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "In accordance with the TX WC fee schedule rev code 278 for implants should be paid at manual cost + 10%."

**Amount in Dispute:** \$10,470.39

### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Texas Mutual reviewed the DWC60 and confirmed audit is correct for CPT code C1713. The provider submitted the bill with only the invoice for the "Button Kit" the invoice is also provided in the DWC60 packet, showing cost of implant was \$2358 plus 10% = \$2,593.80. Texas Mutual issued payment in accordance with Rule 134.403(g)..."

**Response Submitted by:** Texas Mutual

### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
September 25, 2020	Outpatient Hospital Services	\$10,470.39	\$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
  - 370 – This hospital outpatient allowance was calculated according to the APC rate, plus a markup

- D25 – Approved non-network provider for Workwell, TX network claimant per Rule 1305.153(C).
- 618 – The value of this procedure is packaged into the payment of other service performed on the same date of service
- 768 – Reimbursed per O/P at 30% separate reimbursement for implantables (including certification) was requested per Rule 134.403 (G)
- 897 – Separate reimbursement for implantables made in accordance with DWC Rule Chapter 134; Subchapter (E) Health Facility Fees

### **Issues**

1. What is the applicable rule for determining reimbursement for the disputed services?
2. How is the Medicare facility specific amount calculated?
3. Is the requestor entitled to additional reimbursement?

### **Findings**

1. The requestor is seeking additional reimbursement in the amount \$10,470.39 for outpatient hospital services rendered on September 25, 2020. The insurance carrier reduced the disputed services based on workers compensation fee schedule.

DWC Rule 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](http://www.cms.gov), Claims processing Manual, Chapter 4, Section 10.1.1. Specifically, Payment Status Indicators and Ambulatory Payment Category (APC).

DWC Rule 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.

2. 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.

- Procedure code 24341 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 130% for a MAR of \$7,639.83.

- Separate reimbursement for the implant was requested on the medical claim. The submitted documentation included an invoice showing an implant cost of \$2358.00.

The total add-on amount of 10% or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission is \$235.80. The total recommended reimbursement amount for the implantable items is \$2,593.80.

3. The total recommended reimbursement for the disputed services is \$10,233.63. The insurance carrier paid \$10,275.15. 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

July , 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.**