



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 SURGICARE AT PLANO PARKWAY

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-21-2177-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

JULY 26, 2021

REQUESTOR'S POSITION SUMMARY

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

Amount in Dispute: \$5,266.77

RESPONDENT'S POSITION SUMMARY

"BAYLOR SURGICARE AT PLANO PARKWAY submitted their initial, bill box 19 of the CMS1500 shows Device 10% + 235% Service. At the time of audit, the provider did not request separate reimbursement for implant Rule 134.402(g), therefore payment for C1713 was paid \$2169.39 per Medicare's device portion. On the initial bill submission the provider did not submit invoices for the implants. C1762 was denied as global due to the documentation supporting that this was a tendon, which is not considered an implant per Rule 134.402(b)(5). An appeal was received, the provider failed to include the implant certification for the date of service for CPT code C1713. On appeal the invoices received were for C1762, not for C1713...No additional payment is due."

Response Submitted By: Texas Mutual Insurance Co

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|-------------------|---|-------------------|------------|
| December 11, 2020 | Ambulatory Surgical Care Services (ASC) CPT Code 29888 | \$0.00 | \$0.00 |
| | ASC Services CPT Code 29822 | \$0.00 | \$0.00 |
| | ASC Services CPT Code 29881 | \$0.00 | \$0.00 |
| | ASC Services HCPCS Code C1762 | \$2,862.20 | \$0.00 |
| | ASC Services HCPCS Code C1713 | \$2,455.41 | \$0.00 |

| | | | |
|-------|--|------------|--------|
| TOTAL | | \$5,266.77 | \$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 (DWC).

Background

1. 28 Texas Administrative Code (TAC) §133.307, effective February 22, 2021, 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 reason codes:
 - CAC-P12-Workers' compensation jurisdictional fee schedule adjustment.
 - CAC-97-The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
 - 217-The value of this procedure is included in the value of another procedure performed on this date.
 - 763-Paid per ASC FG at 235%: Implants not applicable or separate reimbursement (w/signed Cert) not requested: Rule 134.402(G).
 - 790-This charge was reimbursed in accordance to the Texas medical fee guideline.
 - CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - W3, 350-In accordance with rule 34.804, this bill has been identified as a request for reconsideration or appeal.
 - A09-Per the rules adopted by TDI/DWC there appears to be a distinction between drugs, biologicals, and radiopharmaceuticals and 'implantables 134.402(B)(2) implantable means an object or device that is surgically: (A) Implanted, (B) Embedded, (C) Inserted, (D) or otherwise applied, and (E) related equipment necessary to operate program and recharge the implantable.'
 - A09-Bicleanse Peroneus Tendon is a biological....Payment was allowed per Device Intensive method for code 29888 reimbursement is 235% of service portion (\$3,905.35) of Medicare's geographically adjusted fully implemented rate.
 - DC4, 790-Payment for implants (\$2,182.30) was paid per Medicare device portion.
 - DC4, 790-Remaining codes 29882 & 29881 allowing at 235% per ASC multiple procedure rule.

Issues

1. Did the requestor bill for the implantables in accordance with Rule 134.402?
2. Is the requestor due additional reimbursement for ASC services rendered on December 11, 2020?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$5,266.77 for ASC services rendered on December 11, 2020.
2. Per the Table of Disputed Services, the requestor is seeking separate reimbursement for the implantables billed with HCPCS codes C1762 and C1713.

A review of the submitted EOBs finds the respondent paid for CPT codes 29888, 29882, and 29881 based upon "763-Paid per ASC FG at 235%: Implants not applicable or separate reimbursement (w/signed Cert) not requested: Rule 134.402(G)."

The DWC reviewed the submitted documentation and finds the following:

- The respondent is inconsistent with this denial because issued payment of \$2,162.39 for HCPCS code C1713.

- The requestor's CMS-1500 indicates in Box number 19 "DEVICE 10% + 235% SERVICE."

28 TAC §133.10(f)(1)(W) states,

All information submitted on required paper billing forms must be legible and completed in accordance with this section. The parenthetical information following each term in this section refers to the applicable paper medical billing form and the field number corresponding to the medical billing form. (1)The following data content or data elements are required for a complete professional or non-institutional medical bill related to Texas workers' compensation health care: (W) supplemental information (shaded portion of CMS-1500/field 24d - 24h) is required when the provider is requesting separate reimbursement for surgically implanted devices or when additional information is necessary to adjudicate payment for the related service line."

A review of the submitted medical bill finds the requestor did not indicate on fields 24d-24h a request for separate reimbursement for the implantables. Therefore, the requestor did not comply with 28 TAC §133.10(f)(1)(W).

- The respondent wrote, "the provider failed to include the implant certification for the date of service for CPT code C1713. On appeal the invoices received were for C1762, not for C1713."

28 TAC §134.402(g)(1)(B) states,

A facility, or surgical implant provider with written agreement of the facility, may request separate reimbursement for an implantable. (1) The facility or surgical implant provider requesting reimbursement for the implantable shall: (B) include with the billing a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge," and shall be signed by an authorized representative of the facility or surgical implant provider who has personal knowledge of the cost of the implantable and any rebates or discounts to which the facility or surgical implant provider may be entitled.

The DWC reviewed the submitted documentation and finds the implant cost certification was dated June 11, 2021. The original EOB indicates the carrier audited the bill on February 1, 2021. The requestor's certification is dated after this date. The DWC finds the requestor did not support that the implant cost certification was included with the initial billing as required by 28 TAC §134.402(g)(1)(B).

The DWC concludes the requestor did not comply with 28 TAC §134.402(g)(1)(B) and §133.10(f)(1)(W) for requesting separate reimbursement for implantables; therefore, separate reimbursement for implantables is not supported.

3. The respondent paid \$6,889.83 for CPT codes 29888, 29882, and 29881 based upon "CAC-P12-Workers' compensation fee schedule adjustment," and "763-Paid per ASC FG at 235%: Implants not applicable or separate reimbursement (w/signed Cert) not requested: Rule 134.402(G)." The respondent also paid \$2,162.39 for HCPCS code C1713 based upon "CAC-P12." The total reimbursement for ASC services was \$9,052.22.

To determine the appropriate reimbursement for CPT codes 29888, 29882, and 29881 the DWC refers to 28 TAC §134.402(f).

- A. Per ADDENDUM AA, CPT codes 29888 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 29888 for CY 2020 = \$5,981.95

The device dependent APC offset percentage for National Hospital OPPS found in Addendum P for code 29888 for CY 2020 is 36.51%

Multiply these two = \$2,184.01

- Step 2 calculating the service portion of the procedure:

Per Addendum AA, the Medicare ASC reimbursement rate for code 29888 for CY 2020 is \$3,873.24.

This number is divided by 2 = \$1,936.62.

This number multiplied by the City Wage Index for Plano, Texas of 0.9747 = \$1,887.62.

The sum of these two is the geographically adjusted Medicare ASC reimbursement = \$3,824.24.

The service portion is found by taking the geographically adjusted rate minus the device portion = \$1,640.23.

Multiply the service portion by the DWC payment adjustment of 235% = \$3,854.55.

- Step 3 calculating the MAR:

The MAR is determined by adding the sum of the reimbursement for the device portion and the service portion = \$6,038.56.

The DWC finds the MAR for CPT code 29888 is \$6,038.56.

B. Per ADDENDUM AA, CPT codes 29881 and 29882 are non-device intensive procedures.

28 TAC §134.402(f)(1)(B) 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: (1) Reimbursement for non-device intensive procedures shall be: A) The Medicare ASC facility reimbursement amount multiplied by 235 percent.

The following formula was used to calculate the MAR:

The Medicare ASC reimbursement for codes 29881 and 29882 CY 2020 is \$1,286.26.

The Medicare ASC reimbursement is divided by 2 = \$643.13.

This number multiplied by the City Wage Index for Plano, Texas of 0.9747= \$626.86.

Add these two together = \$1,269.99.

To determine the MAR, multiply the geographically adjusted Medicare ASC reimbursement by the DWC payment adjustment factor of 235% = \$2,984.47. These code are subject to multiple procedure rule discounting of 50% = \$1,492.24.

The DWC finds the MAR for CPT codes 29881 and 29882 is $\$1,492.24 \times 2 = \$2,984.47$.

The DWC finds the MAR for the ASC services rendered on December 11, 2020, is \$9,023.03. The respondent paid \$9,052.22. The DWC finds the requestor is not due additional reimbursement.

Conclusion

For the reasons stated above, the DWC finds that the requestor has not established that reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

| | | |
|-----------|--|------------|
| _____ | _____ | 08/24/2021 |
| 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 Texas Administrative Code §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 Texas Administrative Code §141.1(d).

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