

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Gabriel Jasso, PhD

**Respondent Name**

Acuity a Mutual Insurance Co.

**MFDR Tracking Number**

M4-21-2293

**Carrier's Austin Representative**

Box Number 17

**DWC Date Received**

August 12, 2021

### Summary of Findings

| Dates of Service | Disputed Services | Amount in Dispute | Amount Due    |
|------------------|-------------------|-------------------|---------------|
| June 4, 2021     | CPT Code 96116    | \$0.00            | \$0.00        |
|                  | CPT Code 96121    | \$0.00            | \$0.00        |
|                  | CPT Code 96132    | \$0.00            | \$0.00        |
|                  | CPT Code 96133    | \$353.43          | \$0.00        |
|                  | CPT Code 96136    | \$0.00            | \$0.00        |
|                  | CPT Code 96137    | \$565.00          | \$0.00        |
| <b>Total</b>     |                   | <b>\$918.43</b>   | <b>\$0.00</b> |

### Requestor's Position

"DESIGNATED DOCTOR REFERRED TESTING INCORRECT REDUCTION...The carrier has not paid this claim in accordance and compliance with TDI-DWC Rule 133 and 134."

**Amount in Dispute:** \$918.43

### Respondent's Position

"As noted from the code descriptions, code 96133 and 96137 are timed procedures. They are also billed as secondary codes to the primary codes 96132 and 96136 for additional time...The requestor noted on the Neuropsychological Examination Report that the claimant underwent a total of 24 hours of examination and testing on the disputed date of service...the requestor is

entitled to \$0.00 additional reimbursement for date of service 04/14/21 based on failure to meet its burden of proof to show that additional reimbursement is warranted for the charge in dispute.”

Response Submitted By: Corvel

## **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 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.203, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers’ compensation system.
3. 28 TAC §127.10, sets out the procedures for Designated Doctor examinations.

### Denial Reasons

The insurance carrier reduced the payment for the disputed services with the following claim adjustment codes:

- P13-Payment reduced/denied based on state WC regs/policies.
- RAI-Medical Unlikely Edit; DOS exceeds MUE value.
- W3-Appeal/Reconsideration.

### Issues

1. Is Acuity A Mutual Insurance Company’s denial based on MUE Edits supported?
2. Is Dr. Gabriel Jasso entitled to additional reimbursement?

### Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$918.43 for CPT codes 96133 and 96137 rendered on June 4, 2021.

The respondent reduced payment for CPT codes 96133 and 96137 based upon “RAI-Medical Unlikely Edit; DOS exceeds MUE value.”

To determine if the respondent’s denial of payment is supported, the DWC refers to the following statute:

- The fee guideline for disputed services is found at 28 TAC§134.203.

- 28 TAC §134.203(a)(5) states, “Medicare payment policies” when used in this section, shall mean 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 §134.203(b)(1) states, “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.”
- 28 TAC §134.203(a)(7) states, “Specific provisions contained in the Texas Labor Code or the Texas Department of Insurance, Division of Workers' Compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by CMS in administering the Medicare program. Independent Review Organization (IRO) decisions regarding medical necessity made in accordance with Labor Code §413.031 and §133.308 of this title (relating to MDR by Independent Review Organizations), which are made on a case-by-case basis, take precedence in that case only, over any Division rules and Medicare payment policies.”
- 28 TAC §127.10(c) states in part, “The designated doctor shall perform additional testing when necessary to resolve the issue in question. The designated doctor shall also refer an injured employee to other health care providers when the referral is necessary to resolve the issue in question and the designated doctor is not qualified to fully resolve the issue in question. Any additional testing or referral required for the evaluation is not subject to preauthorization requirements nor shall those services be denied retrospectively based on medical necessity, extent of injury, or compensability in accordance with the Labor Code §408.027 and §413.014, Insurance Code Chapter 1305, or Chapters 10, 19, 133, or 134 of this title (relating to Workers' Compensation Health Care Networks, Agents' Licensing, General Medical Provisions, and Benefits--Guidelines for Medical Services, Charges, and Payments, respectively) but is subject to the requirements of §180.24 of this title (relating to Financial Disclosure).”

Medicare developed MUEs to detect potentially medically unnecessary services. These MUEs set a maximum number of units allowed for a specific service on a single date of service. The DWC finds Medicare’s MUE payment policy is in direct conflict with 28 TAC §127.10(c) which sets out the designated doctor procedures. The DWC concludes that Rule §127.10 take precedence over Medicare MUEs.

2. On the disputed date of service the requestor billed CPT codes 96116, 96121, 96132, 96133, 96136, and 96137. Only codes 96133 and 96137 are in dispute.

The disputed services are described as:

- CPT code 96133 - “Neuropsychological testing evaluation services by physician or other qualified health care professional, including integration of patient data, interpretation of standardized test results and clinical data, clinical decision making, treatment planning and report, and interactive feedback to the patient, family member(s) or caregiver(s),

when performed; each additional hour (List separately in addition to code for primary procedure).”

- CPT code 96137- “Psychological or neuropsychological test administration and scoring by physician or other qualified health care professional, two or more tests, any method; each additional 30 minutes (List separately in addition to code for primary procedure).”

As noted from the code descriptors, code 96133 and 96137 are timed procedures. They are also billed as secondary codes to 96132 and 96136 for additional time.

NCCI Policy Manual, Chapter 12, (M)(2), effective January 1, 2021 states, “The psychiatric diagnostic interview examination (CPT codes 90791, 90792), psychological/neuropsychological testing (CPT codes 96136-96146), and psychological / neuropsychological evaluation services (CPT codes 96130-96133) must be distinct services if reported on the same date of service. CPT Manual instructions permit physicians to integrate other sources of clinical data into the report that is generated for CPT codes 96130-96133. Since the procedures described by CPT codes 96130-96139 are timed procedures, physicians shall not report time for duplicating information (collection or interpretation) included in the psychiatric diagnostic interview examination and/or psychological/neuropsychological evaluation services or test administration and scoring. (CPT codes 96101 and 96118 were deleted January 1, 2019.)

The requestor noted on the Neuropsychological Examination report that the claimant underwent a total of 24 hours of testing, evaluation and examination services.

The DWC finds the requestor billed for 24 hours of service on June 4, 2021. The requestor did not bill in accordance with NCCI Policy Manual, Chapter 12, (M)(2), because “procedures described by CPT codes 96130-96139 are timed procedures, physicians shall not report time for duplicating information (collection or interpretation) included in the psychiatric diagnostic interview examination and/or psychological/neuropsychological evaluation services or test administration and scoring.” The report does not list the start and end time of time procedure codes 96132, 96133, 96136 and 96137 to support the number of hours billed. The requestor has not supported request for additional reimbursement for codes 96133 and 96137.

## 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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

02/22/2022

\_\_\_\_\_  
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](http://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](mailto: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](mailto:CompConnection@tdi.texas.gov).