



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

GABRIEL JASSO PHD

**Respondent Name**

EMPLOYERS ASSURANCE COMPANY

**MFDR Tracking Number**

M4-21-2342-01

**Carrier's Austin Representative**

Box Number 4

**DWC Date Received**

August 17, 2021

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
April 8, 2021	96116, 96121, 96132, 96133, 96136 and 96137	\$3,837.52	\$586.02
<b>Total</b>		\$3,837.52	\$586.02

### Requestor's Position

“\*\*THE DOCTOR INCLUDED A COMPONENT BREAKDOWN IN THE REPORT. THIS BREAKDOWN SHOULD BE USED TO INTERPRET THE AMOUN OF TIME THE DOCTOR SPENT PUTTING TOGETHER PARTS OF THE EXAMINEE'S REPORT. THIS TIME TOOK PLACE OVER SEVERAL DAYS FOLLOWING THE EVALUATION AS THE DOCTOR SAW THE EXAMNINEE ON THE DATE OF SERVICE AND WORKED ON THE REPORT IN THE FOLLOWING DAYS.\*\*”

**Amount in Dispute:** \$3,837.52

### Respondent's Position

The Austin carrier representative for Employers Assurance Company is Law Office of Ricky D. Green. Law Office of Ricky D. Green was notified of this medical fee dispute on August 24, 2021. 28 TAC §133.307(d)(1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division may base its decision on the available information. As of today, no response has been received from the carrier or its representative. We therefore base this decision on the information available as authorized under §133.307(d)(1).

## 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 (TAC) §133.307, effective May 31, 2012, sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.203, effective March 1, 2008, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers' compensation system.
3. 28 TAC §127.10 effective September 1, 2012, sets out the Designated Doctor procedures and requirements.

### Denial Reasons

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

- 16 – Claim lacks information or has submission/billing error(s) which is needed for adjudication
- 5213 – Services are not payable as documentation does not support the services rendered.

### Issues

Is the Requestor entitled to reimbursement?

### Findings

The requestor is seeking medical fee dispute resolution in the amount of \$3,837.52 for CPT codes 96116, 96121, 96132, 96133, 96136, and 96137 rendered on April 8, 2021. The insurance carrier denied/reduced the services in dispute with reduction codes 16 and 5213 (descriptions provided above.)

The DWC refers to the following statutes to determine the appropriate reimbursement:

- 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."

On the disputed date of service, the requestor billed CPT codes 96116, 96121, 96132, 96133, 96136 and 96137.

*NCCI Policy Manual*, Chapter 11, (M)(2), effective January 1, 2019 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 examination and testing on the disputed date of service. The report noted that the claimant underwent;

- Neuropsychological testing evaluation services: 10 hours;
- Examinee Interview & Neurobehavioral/Mental Status Exam: 4 hours;
- Neuropsychological Testing and Scoring: 10 hours.

The DWC finds the requestor did not bill in accordance with *NCCI Policy Manual*, Chapter 11, (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; therefore, reimbursement cannot be recommended.

The DWC finds that the requestor is however, entitled to reimbursement for CPT Codes 96116 and 96121.

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."

- The DWC conversion factor for 2021 is 61.37.
- The Medicare conversion factor for 2021 is 34.8931.
- The locality is Rest of Texas
- To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor)X Medicare Payment = Maximum Allowable Reimbursement (MAR).

Using the above formula, the MAR is:

CPT Code	Medicare Payment	#Units	MAR	Insurance Carrier Paid	Amount in Dispute	Amount Due
96116	\$94.39	1	\$165.47	\$0.00	\$165.18	\$165.18
96121	\$80.16	3	\$421.58	\$0.00	\$420.84	\$420.84
TOTALS			\$587.05	\$0.00	\$586.02	\$586.02

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 established that reimbursement of \$586.02 is due.

## Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed services. It is ordered that the Respondent must remit to the Requestor \$586.02 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

### Authorized Signature

_____	_____	October 29, 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](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).