

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Dr. James A. Mitchell

Respondent Name

Indemnity Insurance Co. of North America

MFDR Tracking Number

M4-21-2348

Carrier's Austin Representative

Box Number 15

DWC Date Received

August 18, 2021

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 2, 2021	CPT Code 99213	\$163.14	Dismissed
November 3, 2020	CPT Code 99213	\$127.95	
June 5, 2020	CPT Code 99213	\$127.95	
November 12, 2019	CPT Code 99214	\$182.03	Not eligible for MFDR
August 8, 2019	CPT Code 99214	172.45	
May 24, 2019	CPT Code 99204	\$274.54	
September 11, 2020	CPT Code 97110	\$229.80	\$156.01
September 11, 2020	CPT Code 97112	\$68.40	\$53.64
Total		\$1,346.26	\$209.65

Requestor's Position

"This patient has a **CONTESTED CASE HEARING** on April 22, 2020 and it was determined that the patient sustained a **compensable injury** on [redacted]. **I have included a copy of the decision and order.**"

Amount in Dispute: \$1,346.26

Respondent's Position

September 1, 2021: "Supplemental response will be provided once the bill auditing company has finalized their review."

Response Submitted by: Gallagher Bassett Services, Inc.

September 7, 2021: "Portions of this request for Medical Fee Dispute Resolution were not timely filed pursuant to DWC Rule 133.307(c). The dates of service in dispute, 5/24/2019, 8/8/2019, 11/12/2019, and 6/5/2020, were not filed within one year of the date of service....For the date of service 6/5/2020, this dispute was not timely filed within one year. However, since the EOBs reflect an extent of issue argument, the date of the CCS Decision and Order controls. However, there has been no extent of injury CCH. This date should be dismissed from the dispute. For the date of service 9/11/2021, the services were partially paid. Requestor did not document the time spent on each therapeutic activity, nor were the activities specifically documented. Simply dictating the number of units was not enough information to confirm the time spent by the therapist one-on-one with the Claimant as required by the coding guidelines. Therefore, no additional allowance should be ordered for this date of service."

Response Submitted by: Downs Stanford, P.C.

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 §133.305 sets out the general rules for dispute resolution.
3. 28 TAC §134.203 sets out the fee guidelines for professional services.

Denial Reasons

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

- Date of Service (DOS) 6/2/2021:
 - P6-Based on entitlement to benefits.
 - B13-Previously paid. Payment for this claim/service may have been provided in a previous payment.
- DOS 11/03/2020:
 - 219-Based on extent of injury.

- B13-Previously paid. Payment for this claim/service may have been provided in a previous payment.
- DOS 6/5/2020:
 - P6-Based on entitlement to benefits.
 - B13-Previously paid. Payment for this claim/service may have been provided in a previous payment.
- DOS 11/12/2019:
 - 16-Claim/service lacks information which I needed for adjudication. Additional information is supplied using remittance advice remarks codes whenever appropriate.
 - 193-Original payment decision is being maintained. Upon review, it was determined that his claim was processed properly.
- DOS 8/8/2019:
 - B13-Previously paid. Payment for this claim/service may have been provided in a previous payment.
 - D1-Duplicate.
- DOS 5/24/2019:
 - 150-Payment adjusted because the payer deems the information submitted does not support the level of service.
 - 193-Original payment decision is being maintained. Upon review, it was determined that his claim was processed properly.
- DOS 9/11/2020:
 - B12-Service not documented in patients' medical records.
 - P12-Workers' compensation jurisdictional fee schedule adjustment.

Issues

1. Was the dispute timely filed with Medical Fee Dispute Resolution?
2. Does an extent of injury and entitlement of benefits issue exist in this dispute?
3. Is Indemnity Insurance Co. of North America's denial based on service not documented in patient's records supported?
4. Is Dr. James Mitchell entitled to additional reimbursement?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$1,346.26 for professional services rendered from May 24, 2019 through June 2, 2021.
 28 TAC §133.307(c)(1) states: "Timeliness. A requestor shall timely file the request with the DWC's MFDR Section or waive the right to MFDR. The DWC shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in

subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute."

The DWC reviewed the submitted documentation and finds:

- The request for medical dispute resolution was received in MFDR on August 18, 2021.
 - Disputed dates of service May 24, 2019, August 8, 2019, November 12, 2019, are past the one-year deadline and are not eligible for MFDR. These dates of service do not involve issues identified in §133.307(c)(1)(B). The DWC finds these dates of services are not eligible for MFDR because the requestor did not file this dispute with the DWC's MFDR Section within the one-year deadline set out in 28 TAC §133.307.
2. The respondent denied reimbursement for CPT code 99213 rendered on June 5, 2020 and June 2, 2021 based upon "P6-Based on entitlement to benefits." The respondent also denied CPT code 99213 rendered on November 3, 2020 based upon "219-Based on extent of injury."

The requestor wrote, "This patient has a **CONTESTED CASE HEARING** on April 22, 2020 and it was determined that the patient sustained a **compensable injury** on [redacted]. **I have included a copy of the decision and order.**"

The April 22, 2020 CCH Decision and Order found the claimant sustained a compensable injury on [redacted]. The Decision does not address extent of injury or entitlement to benefits for the disputed dates June 5, 2020, November 3, 2020 and June 2, 2021.

28 TAC §133.305(b) requires that If a dispute regarding compensability, extent of injury, or liability exists for the same service for which there is a medical fee dispute, the disputes regarding compensability, extent of injury, or liability shall be resolved prior to the submission of a medical fee dispute for the same services in accordance with Labor Code §408.021 and Chapter 410.

Upon review of the submitted information, the DWC finds the insurance carrier has denied payment for the health care for reasons related to the extent of injury or liability for the disputed services. The carrier's explanation of benefits was timely presented to the requestor in accordance with the requirements of 28 Texas Administrative Code §133.240.

The DWC concludes there is an outstanding dispute regarding the extent of injury or liability for the disputed services. Consequently, the medical fee issues in dispute are not eligible for review until the related extent of injury or liability issues have been finally adjudicated in accordance with the provisions of Texas Labor Code Chapter 410.

Notice

The DWC hereby notifies the requestor that the process for resolving disputes regarding the extent of injury or liability for health care is found in Texas Labor Code Chapter 410 and corresponding DWC rules in 28 Texas Administrative Code Chapter 141.

To resolve this matter, the requestor may file the required **Form DWC045, Request to Schedule, Reschedule, or Cancel a Benefit Review Conference (BRC), or to Proceed Directly to Contested Case Hearing (CCH)** with the field office handling the claim. A copy of Form DWC045 may be downloaded from the TDI-DWC website at www.tdi.texas.gov/forms/.

Medical Fee Dispute Resolution request for dates of service May 24, 2019, November 3, 2020 and June 2, 2021 are hereby dismissed in accordance with Rule §133.307(f)(3)(B).

3. The respondent reduced reimbursement for physical therapy services, CPT code 97110 and 97112, rendered on September 11, 2020 based upon reasons "B12-Service not documented in patients' medical records," and "P12-Workers' compensation jurisdictional fee schedule adjustment."

The DWC reviewed the submitted report and finds the requestor supported billing 6 units of 97110 and 2 units of 97112.

4. Medicare Claims Processing Manual Chapter 5, 10.3.7-effective June 6, 2016, titled *Multiple Procedure Payment Reductions for Outpatient Rehabilitation Services*, states:

Full payment is made for the unit or procedure with the highest PE payment. For subsequent units and procedures with dates of service prior to April 1, 2013, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment is made for the PE for services submitted on professional claims (any claim submitted using the ASC X12 837 professional claim format or the CMS-1500 paper claim form) and 75 percent payment is made for the PE for services submitted on institutional claims (ASC X12 837 institutional claim format or Form CMS-1450).

For subsequent units and procedures with dates of service on or after April 1, 2013, furnished to the same patient on the same day, full payment is made for work and malpractice and 50 percent payment is made for the PE for services submitted on either professional or institutional claims.

To determine which services will receive the MPPR, contractors shall rank services according to the applicable PE relative value units (RVU) and price the service with the highest PE RVU at 100% and apply the appropriate MPPR to the remaining services.

When the highest PE RVU applies to more than one of the identified services, contractors shall additionally sort and rank these services according to highest total fee schedule amount, and price the service with the highest total fee schedule amount at 100% and apply the appropriate MPPR to the remaining services.

Review of the Medicare policies finds that the multiple procedure payment reduction (MPPR) applies to the Practice Expense (PE) of certain time-based physical therapy codes when more than one unit or procedure is provided to the same patient on the same day. Medicare publishes a list of the codes subject to MPPR annually.

For 2020 the codes subject to MPPR are found in *CMS CY 2020 PFS Final Rule Multiple Procedure Payment Reduction Files*. Review of that list find that code 97110 and 97112 are subject to MPPR policy.

Here is a chart ranking the PE payment for each of the codes billed by the health care provider on the disputed dates.

CODE	PRACTICE EXPENSE	MEDICARE POLICY
97110	0.4	MPPR applies
97112	0.48	Highest rank, no MPPR

As shown above, code 97112 has the highest PE payment among the services billed by the provider that day, therefore, the reduced PE payment applies to all other services.

The *MPPR Rate File* that contains the payments for 2020 services is found at <https://www.cms.gov/Medicare/Billing/TherapyServices/index.html>.

- MPPR rates are published by carrier and locality.
- The services were provided in Dallas, TX.
- The carrier code for Texas is 4412 and the locality code for Dallas is 11.

CODE	INITIAL UNIT PAYMENT	MPPR PAYMENT
97110	\$24.37	\$24.37
97112	\$36.51	\$27.68

Per 28 Texas Administrative Code §134.203(c)(1)(2), "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. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) 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 DWC had been using this MEI annual percentage adjustment: The 2006 DWC 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) DWC conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = Maximum Allowable Reimbursement (MAR).

The 2020 DWC Conversion Factor is 60.32

The 2020 Medicare Conversion Factor is 36.0896

Using the above formula, the DWC finds the MAR is:

Code	Units	Medicare Payment	MAR or \$134.203 (h) Lesser of MAR billed amount	Insurance Carrier Paid	Amount Due
97110	6	\$24.37	$\$40.73 \times 6 = \244.39	\$88.38	\$156.01
97112	1	\$36.51	$\$36.51 \times 1 = \61.02	\$53.64	\$53.64
97112	1	\$27.68	$\$27.68 \times 1 = \46.26		
				Total Allowable Reimbursement	\$209.65

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 requestor has established that additional reimbursement \$209.65 is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that Indemnity Insurance Co. of North America must remit to Dr. James A. Mitchell \$209.65 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

09/28/2021

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.