

## Medical Fee Dispute Resolution Findings and Decision General Information

**Requestor Name**

ANTHONY J. ESQUIBEL

**Respondent Name**

REPUBLIC FRANKLIN INSURANCE CO.

**MFDR Tracking Number**

M4-22-0131-01

**Carrier's Austin Representative**

Box Number 01

**DWC Date Received**

September 22, 2021

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
November 30, 2020	97750-GP	\$483.36	\$377.45
<b>Total</b>		<b>\$483.36</b>	<b>\$377.45</b>

### Requestor's Position

"This is incorrect. This provider is an authorized treater in workers' compensation. The treating doctor referred the patient to our provider to have the PHYSICAL PERFORMANCE EVALUATION. Please see office visit note. I have also attached a copy of the DWC-53 authorizing Dr. James Mitchell, DC as the treating provider for this patient. I have also attached an email from the claim adjuster acknowledging this approval."

**Amount in Dispute:** \$483.36

### Respondent's Position

The Austin carrier representative for Republic Franklin Insurance Company is JT Parker & Associates LLC. JT Parker & Associates LLC was notified of this medical fee dispute on September 28, 2021. Rule §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 TAC §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.203 sets out the fee guidelines for professional medical services.

### Denial Reasons

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

- 193 – Original payment decision is being maintained. Upon review it was determined that this claim was processed properly.
- Note: This is in response to your appeal on the attached claim. After reviewing the service dates in question, we find our initial audit and recommendation appears to be correct. No additional allowance is recommended. Need proof of authorization.
- 18 – Exact duplicate claim/service.
- 191 – Claim denied because this is not a work-related injury/illness and thus not the liability of the workers' compensation carrier.

### Issues

1. Is the Insurance Carrier's CEL denial reason supported?
2. Is the Insurance Carrier's denial for lack of preauthorization supported?
3. Is the Requestor entitled to reimbursement?

### Findings

1. The requestor seeks reimbursement for CPT Code 97750-GP (x8) rendered on November 30, 2020. The insurance carrier on the EOB denied the disputed service with denial reason 191 (description provided above.)

28 TAC §133.305(b) states that if a dispute over the extent of a covered work injury exists for the same service for which there is a medical fee dispute, the dispute regarding the extent of injury shall be resolved prior to the submission of a medical fee dispute.

Review of the documentation submitted by the parties finds that the carrier did not provide documentation to the Division to support that it filed a Plain Language Notice (PLN) regarding the disputed conditions as required by §133.307(d)(2)(H). The respondent did not submit information to MFDR, sufficient to support that the PLN had ever been presented to the requestor or that the requestor had otherwise been informed of PLN prior to the date that the request for medical fee dispute resolution was filed with the Division; therefore, the division finds that the extent of injury denial was not timely presented to the requestor in the manner required by 28 TAC §133.240. Because the service in dispute does not contain an unresolved extent of injury issue, this matter is ripe for adjudication of a medical fee under 28 TAC §133.307. For that reason, this matter is addressed pursuant to the applicable rules and guidelines.

2. The requestor seeks medical fee dispute resolution for CPT code 97750-FC (X8) rendered on November 30, 2020 in the amount of \$483.36.

According to the explanation of benefits, the carrier denied payment for the disputed service based upon "Need proof of authorization."

28 TAC §134.600 does not identify physical performance tests as requiring preauthorization. The insurance carrier did not respond to the DWC-60 request to support their denial reason. As a result, the requestor is entitled to reimbursement for the service in dispute.

3. 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."

On the disputed dates of service, the requestor billed CPT code 97550-GP (X8). The multiple procedure rule discounting applies to the disputed service.

*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 feeschedule amount, and price the service with the highest total fee schedule amount at 100% and apply the appropriate MPPR to the remaining services.

The *MPPR Rate File* that contains the payments for 2021 services is found at <https://www.cms.gov/Medicare/Billing/TherapyServices/index.html>.

- MPPR rates are published by carrier and locality.
- Review of Box 32 on the CMS-1500 finds that the services were rendered in zip code 75211 which is located in Dallas, Texas; therefore, the Medicare locality is "Dallas, Texas."
- The Medicare participating amount for CPT code 97750 at this locality is \$35.06 for the first unit, and \$25.75 for subsequent units.
- The DWC conversion factor for 2021 is 61.17
- The Medicare conversion factor for 2021 is 34.8931.
- 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 \$61.46 for the first unit, and \$45.14 for the subsequent units, for a total of \$377.45. The respondent paid \$0.00. The difference between MAR and amount paid is \$377.45; this amount is recommended for reimbursement.

### 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 \$377.45 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 \$377.45 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

### Authorized Signature

_____	_____	January 13, 2022
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).