



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

NUEVA VIDA BEHAVIORAL HEALTH

Respondent Name

LIBERTY INSURANCE CORPORATION

MFDR Tracking Number

M4-22-0133-01

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 |
|------------------|-------------------|-------------------|-----------------|
| February 4, 2021 | 90791 x 3 | \$720.00 | \$310.00 |
| Total | | \$720.00 | \$310.00 |

Requestor's Position

"Please review the attached claim, Explanation of Benefits, and supporting documentation and reconsider for payment. Reason for denial was 'No Preauth.'... was referred for a psychological evaluation by his treating physician, Dr. Ernesto Mendez, MD, which was performed on 2/04/2021. This was an 'evaluation/diagnostic' interview and should not be considered 'treatment.'"

Amount in Dispute: \$720.00

Respondent's Position

"We have again reviewed services from 2/4/2021 and denial for 90791 stands with Preauthorization was requested by denied. On 1/6/2021, Nueva Vida Behavioral Health requested approval for 90791, 96130, 96138, and 96139 which was denied by Utilization Management. On 2/4/2021, Utilization Management upheld the denial after reviewing the provider appeal Copies of provider requests and the letters from Utilization Management advising of the determination which was sent to the Injured employee and Nueva Vida Behavioral Health."

Response Submitted by: Liberty Mutual Insurance

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 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.600 sets out the guidelines for preauthorization, concurrent review, and voluntary certification of healthcare.
3. 28 TAC §134.203 sets out the sets out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.

Denial Reasons

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

- 5882 - PRE-AUTHORIZATION WAS REQUESTED BUT DENIED FOR THIS SERVICE PER DWC RULE 134.600.
- W3 - ADDITIONAL PAYMENT MADE ON APPEAL/RECONSIDERATION
- 5876 - ACCORDING TO THE TEXAS DIVISION OF WORKERS COMPENSATION'S RULES EFFECTIVE HAY 1, 2007, ALL MEDICAL TREATMENT PROVIDED TO WORKERS COMPENSATION PATIENTS IN THE STATE OF TEXAS MUST FOLLOW THE OFFICIAL DISABILITY GUIDELINES (ODG). THE SERVICES PROVIDED ARE OUTSIDE THE ODG GUIDELINES AND NO PRE-AUTHORIZATION WAS REQUESTED.

Issues

1. What is the definition of CPT Code 90791 and is it a timed code?
2. Is the insurance carrier's denial reason supported?
3. Is the requestor entitled to reimbursement?

Findings

1. The requestor seeks reimbursement for CPT code 90791 x 3 units rendered on February 4, 2021.

28 TAC §134.203 states in pertinent part, "(b) 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..."

CPT Code 90791 is defined as "Psychiatric diagnostic evaluation (no medical services) completed by a non-physician."

The requestor billed 3 units of CPT Code 90791. Per CMS this CPT Code is not a timed procedure code. As a result, only one unit of CPT Code 90791 is allowed.

2. The insurance carrier denied/reduced the disputed services with denial/reduction code(s) 5882 and 5876 (description provided above.)

28 TAC §134.600 states in pertinent part, "(p) Non-emergency health care requiring preauthorization includes... (7) all psychological testing and psychotherapy, repeat interviews, and biofeedback, except when any service is part of a preauthorized or division exempted return-to-work rehabilitation program."

Review of the insurance carrier's documentation does not contain sufficient information to support that the disputed service is a repeat interview. As a result, the insurance carrier's denial reasons are not supported.

The Division finds that the disputed service does not require preauthorization pursuant to 28 TAC §134.600 (p) (7). As a result, the disputed services are reviewed per 28 TAC §134.203.

3. 28 TAC §134.203 states in pertinent part, "(c) 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..."

28 TAC §134.203 states in pertinent part, "(h) When there is no negotiated or contracted amount that complies with Labor Code §413.011, reimbursement shall be the least of the: (1) MAR amount; (2) health care provider's usual and customary charge, unless directed by Division rule to bill a specific amount; or (3) fair and reasonable amount consistent with the standards of §134.1 of this title."

The division finds that 28 TAC §134.203(h) (1) applies to the reimbursement of CPT Code 90791. The MAR for CPT Code 90791 is \$310.00. The Requestor seeks \$720.00, the lesser of is \$310.00, therefore this amount is recommended.

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 \$310.00 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 \$310.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

| | | |
|-----------|--|-------------------|
| | | November 12, 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. 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 electronico CompConnection@tdi.texas.gov.