



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Eliza Miranda, PT

**Respondent Name**

Starr Indemnity & Liability Co.

**MFDR Tracking Number**

M4-22-0163-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

September 24, 2021

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 2, 2020	CPT Code 97164	\$92.23	\$92.23
	CPT Code 97140 (X2)	\$129.24	\$76.98
	CPT Code 97110	\$69.26	\$41.27
	CPT Code 97530	\$76.14	\$48.64
	CPT Code 97535	\$75.38	\$44.34
<b>Total</b>		<b>\$442.25</b>	<b>\$303.46</b>

### Requestor's Position

"The insurance carrier was sent the enclosed medical bill(s) in a timely manner."

**Amount in Dispute:** \$442.25

### Respondent's Position

"The bill was not received by ESIS, Inc. until 6-15-21 and has been properly denied for timely filing. Furthermore, the provider did not obtained pre-authorization for these services."

**Response Submitted by: ESIS**

## 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, effective March 1, 2008, sets out the reimbursement guidelines for professional services.

### Denial Reasons

Neither party to the dispute submitted explanation of benefits to support the denial of payment for the disputed services.

### Issues

1. Is Starr Indemnity & Liability Company's response to this dispute submitted in the form and manner required by 28 TAC §133.307.
2. Is Elisa Miranda, PT entitled to reimbursement?

### Findings

1. The requestor is seeking reimbursement in the amount of \$442.25 for physical therapy services, CPT codes 97164, 97140, 97110, 97530, and 97535 rendered on October 2, 2020.

The respondent wrote, "The bill was not received by ESIS, Inc. until 6-15-21 and has been properly denied for timely filing. Furthermore, the provider did not obtain pre-authorization for these services."

28 TAC §133.307(d)(2)(B) and (F) states,

Responses. Responses to a request for MFDR must be legible and submitted to the division and to the requestor in the form and manner prescribed by the division.

(2) Response. On receipt of the request, the respondent must provide any missing information not provided by the requestor and known to the respondent. The respondent must also provide the following information and records:

(B) all initial and appeal EOBs related to the dispute as originally submitted to the health care provider in accordance with this chapter, related to the health care in dispute not submitted by the requester, or a statement certifying that the respondent did not receive the health care provider's disputed billing before the dispute request;

(F) The responses shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review. If the response includes unresolved issues of compensability, extent of injury, liability, or medical

necessity, the request for MFDR will be dismissed in accordance with subsection (f)(3)(B) or (C) of this section.

A review of the submitted documentation finds that neither party to this dispute submitted any explanation of benefits to support the respondent's position regarding untimely filing and a lack of preauthorization. The DWC finds the respondent's response was not submitted in the form and manner required by 28 TAC §133.307(d)(2)(B) and (F). The disputed services will be reviewed based upon the fee guideline.

2. The requestor is seeking reimbursement for physical therapy services, CPT codes 97164, 97140, 97110, 97530, and 97535.

*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 1615-F the *CY 2020 PFS Final Rule Multiple Procedure Payment Reduction Files*. Review of that list find that codes 97164, 97140, 97110, 97530, and 97535 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
97164	0.89	<b>Highest rank, no MPPR for first unit</b>
97140	<b>0.35</b>	MPPR applies
97110	0.4	MPPR applies
97530	0.66	MPPR applies
97535	0.5	MPPR applies

As shown above, code 97164 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 Pasadena, TX.
- The carrier code for Texas is 4412 and the locality code for Houston is 18.

CODE	MPPR PAYMENT
97140	\$23.03
97110	\$24.69
97530	\$29.10
97535	\$26.53

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
97164	1	\$61.53	\$ 92.23	\$0.00	\$ 92.23
97140	2	\$23.03*	\$38.49 x 2 = \$76.98	\$0.00	\$ 76.98
97110	1	\$24.69*	\$41.27	\$0.00	\$41.27
97530	1	\$29.10*	\$48.64	\$0.00	\$48.64
97535	1	\$26.53*	\$44.34	\$0.00	\$44.34
*MPPR reduced payment				Total Allowable Reimbursement	\$303.46

The total allowable for the disputed physical therapy services per the DWC fee guideline is \$303.46. The insurance carrier paid \$0.00. The requestor is due the difference between the total allowable and paid of \$303.46.

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 reimbursement of \$303.46 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 Starr Indemnity & Liability Co. must remit to Elisa Miranda, PT \$303.46 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

### Authorized Signature

_____	_____	10/26/2021
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).