



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Javier Hernandez, DC

Respondent Name

National Union Fire Insurance Co. of Pittsburg, PA

MFDR Tracking Number

M4-22-0220-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

October 4, 2021

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 24, 2021	CPT Code 97750-FC (X16) Functional Capacity Evaluation (FCE)	\$467.36	\$241.01
Total		\$467.36	\$241.01

Requestor's Position

"WORK COMP TREATMENT/SERVICES INCORRECT REDUCTION...The carrier has not paid this claim in accordance and compliance with TDI-DWC Rule 133 and 134."

Amount in Dispute: \$467.36

Respondent's Position

The Austin carrier representative for National Union Fire Insurance Co. of Pittsburg, PA is Flahive, Ogden & Latson. Flahive, Ogden & Latson received a copy of this medical fee dispute on October 12, 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 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.225 sets the reimbursement guidelines for FCEs.
3. 28 TAC §134.203 sets out the fee guidelines for professional services.

Denial Reasons

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

- 90223, P12-Workers' compensation jurisdiction fee schedule adjustment.
- 90563, 193 -Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 5283-Additional allowance is not recommended as this bill was reviewed in accordance with state guidelines, usual and customary policies, providers contract.
- 600-Allowance based upon maximum number of units allowed according to the state fee schedule and/or service code description or regulation.

Issues

1. Is National Union Fire Insurance Co. of Pittsburg, PA reduction based on reason code 600 supported?
2. Is Dr. Javier Hernandez entitled to additional reimbursement?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$467.36 for CPT code 97750-FC (X16) rendered on June 24, 2021.

According to the explanation of benefits, the carrier reduced payment for the disputed FCE based upon "600-Allowance based upon maximum number of units allowed according to the state fee schedule and/or service code description or regulation.;"

The fee guideline for FCEs is found at 28 TAC §134.225.

28 TAC §134.225 states,

The following applies to functional capacity evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c)(1) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a division ordered test; a maximum of two hours for an interim test; and a maximum of three hours for the discharge test, unless it is the initial test. Documentation is required. "

The respondent did not submit any documentation to support the requestor exceeded the fee guideline; therefore, the respondent's denial based upon reason code 600 is not supported. The disputed FCE will be reimbursed per the fee guideline.

2. 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 Texas Administrative Code §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-FC (X16). 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 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.

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 79925 which is located in El Paso, Texas; therefore, the Medicare locality is "Rest of Texas."
- The carrier code for Texas is 4412 and the locality code for Rest of Texas is 99.
- The Medicare participating amount for CPT code 97750 at this locality is \$33.44 for the first unit, and \$24.77 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 \$58.62 for the first unit, and \$43.42 for the subsequent units, for a total of \$709.97. The respondent paid \$468.96. The difference between MAR and amount paid is \$241.01; 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 additional reimbursement of \$241.01 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 National Union Fire Insurance Co. of Pittsburg, PA. must remit to Dr. Javier Hernandez \$241.01 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

_____	_____	12/08/2021
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 electrónico CompConnection@tdi.texas.gov.