



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Grapevine Surgicare

Respondent Name

Safety National Casualty Corp

MFDR Tracking Number

M4-22-0363-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

October 22, 2021

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 9, 2021	Ambulatory Surgical Care Services, (ASC), CPT Code 27792	\$0.00	\$0.00
	ASC CPT Code 27829	\$0.00	\$0.00
	ASC HCPCS Code C1713	\$6,088.50	\$0.00
Total		\$6,088.50	\$0.00

Requestor's Position

"At this time we are requesting that this claim paid in accordance with the 2021 Texas Workers Compensation Fee Schedule and Guidelines for Ambulatory Surgical Centers."

Amount in Dispute: \$6,088.50

Respondent's Position

"It is the carrier's position that the provider is not entitled to any additional reimbursement."

Response Submitted by: Flahive, Ogden & Latson

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. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
3. 28 TAC §133.20 sets out the rules for timely submission of a claim by a health care provider.
4. 28 TAC §102.4(h) sets out rules to determine when written documentation was sent.
5. 28 TAC §134.402, sets out the fee guidelines for ambulatory surgical care services.

Denial Reasons

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

- P12-Workers' compensation jurisdictional fee schedule adjustment.
- 5283-Additional allowance is not recommended as this bill was reviewed in accordance with state guidelines, usual and customary policies, provider's contract, or car
- 223-Adjustment code for mandated federal, state, or local law/regulation that is not already covered by another code and is mandated before a new code can be created.
- 29-The time limit for filing has expired.
- P5-Based on payer reasonable and customary fees. No maximum allowable defined by legislated fee arrangement.
- 00663-Reimbursement has been calculated according to state fee schedule guidelines.
- 4123-Allowance is based on Texas ASC device intensive procedure calculation and guidelines.
- 983-Charge for this procedure exceeds Medicare ASC schedule allowance.
- 193, 90563-Original payment decision is being maintained. Upon review it was determined that this claim was processed properly.

Issues

1. Is Safety National Casualty Corporation's denial based upon timely filing supported?
2. Is Grapevine Surgicare entitled to reimbursement?

Findings

1. The requestor is seeking dispute resolution in the amount of \$6,088.50 for the implantables with HCPCS Code C1713.

The respondent denied reimbursement based upon reason code "29-The time limit for filing has expired." To determine if the disputed services are eligible for reimbursement the DWC refers to the following statute:

- TLC §408.027(a) states, "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."
- 28 TAC §133.20(b) states, "Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied. The medical bill submitted by the health care provider to the correct workers' compensation insurance carrier is subject to the billing, review, and dispute processes established by Chapter 133, including §133.307(c)(2)(A) - (H) of this title (relating to MDR of Fee Disputes), which establishes the generally acceptable standards for documentation."
- 28 TAC §102.4(h), states, "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday."

Both parties to this dispute submitted documentation for consideration in support of their position. The DWC reviewed all the documentation and finds:

- The date of service in dispute is March 9, 2021.
 - The requestor submitted a Explanation of Benefits dated March 26, 2021 that supports bill was submitted within the 95 day deadline.
 - The respondent's denial of payment based upon timely filing is not supported.
2. The respondent wrote in the position summary that, "CPT codes C1713 was included/bundled into the total facility payment and does not warrant a separate payment."

The fee guideline for ASC services is found in 28 TAC §134.402.

28 TAC §134.402(f)(2)(B) states,

The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the Federal Register. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the Federal Register, or its successor. The following minimal modifications apply: (2) Reimbursement for device intensive procedures shall be: (B) If an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the device intensive procedure shall be the sum of: (i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission; and (ii) the ASC service portion multiplied by 235 percent.

28 TAC §134.402 (g)(1)(A) and (B) states,

A facility, or surgical implant provider with written agreement of the facility, may request separate reimbursement for an implantable. (1) The facility or surgical implant provider requesting reimbursement for the implantable shall: (A) bill for the implantable on the Medicare-specific billing form for ASCs; (B) include with the billing a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge," and shall be signed by an authorized representative of the facility or surgical implant provider who has personal knowledge of the cost of the implantable and any rebates or discounts to which the facility or surgical implant provider may be entitled.

28 TAC §133.10(f)(1)(W) states,

All information submitted on required paper billing forms must be legible and completed in accordance with this section. The parenthetical information following each term in this section refers to the applicable paper medical billing form and the field number corresponding to the medical billing form. (1)The following data content or data elements are required for a complete professional or non-institutional medical bill related to Texas workers' compensation health care: (W) supplemental information (shaded portion of CMS-1500/field 24d - 24h) is required when the provider is requesting separate reimbursement for surgically implanted devices or when additional information is necessary to adjudicate payment for the related service line."

28 TAC §134.402(g)(1)(B) states,

A facility, or surgical implant provider with written agreement of the facility, may request separate reimbursement for an implantable. (1) The facility or surgical

implant provider requesting reimbursement for the implantable shall: (B) include with the billing a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge," and shall be signed by an authorized representative of the facility or surgical implant provider who has personal knowledge of the cost of the implantable and any rebates or discounts to which the facility or surgical implant provider may be entitled.

The DWC reviewed the submitted information and finds:

- The requestor did not indicate on the medical bill in fields 24d-24h a request for separate reimbursement for the implantables.
- The implant cost certification was dated June 29, 2021. The original EOB indicates the carrier received the bill on March 15, 2021. The requestor's certification is dated after this date. The DWC finds the requestor did not support that the implant cost certification was included with the initial billing as required by 28 TAC §134.402(g)(1)(B).
- The respondent paid for CPT codes 27792 and 27829 at the higher rate of 235% for the implants included with service.

The DWC concludes the requestor did not comply with 28 TAC §134.402(g)(1)(B) and §133.10(f)(1)(W) for requesting separate reimbursement for implantables; therefore, the respondent's denial of payment for HCPCS code C1713 is supported.

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 not established that reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is not entitled to additional reimbursement for the disputed services.

Authorized Signature

_____	_____	11/17/2021
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, **option 3 or email** CompConnection@tdi.texas.gov.