

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Sprint Sports
Rehabilitation

Respondent Name

Berkley National Insurance Co

MFDR Tracking Number

M4-22-0367-01

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
October 12, 2020	97161	\$-17.79	\$0.00
October 12, 2020	97110	\$21.00	\$0.00
October 14, 2020	97545	\$137.50	\$0.00
October 14, 2020	97546	\$121.92	\$0.00
October 14, 2020	S9999	\$12.56	\$0.00
October 15, 2020	97545	\$137.50	\$0.00
October 15, 2020	97456	\$162.56	\$0.00
October 15, 2020	S9999	\$28.33	\$0.00
October 19, 2020	97545	\$137.50	\$0.00
October 19, 2020	97546	\$121.92	\$0.00
October 19, 2020	S9999	\$12.56	\$0.00
October 20, 2020	97545	\$137.50	\$0.00
October 20, 2020	97546	\$81.28	\$0.00
October 20, 2020	S9999	\$12.56	\$0.00
October 23, 2020	97545	\$137.50	\$0.00
October 23, 2020	97546	\$162.56	\$0.00
October 23, 2020	S9999	-\$3.21	\$0.00
October 26, 2020	97545	\$137.50	\$0.00
October 26, 2020	97546	\$162.56	\$0.00
October 26, 2020	S9999	\$28.33	\$0.00

November 9, 2020	97545	\$137.50	\$0.00
November 9, 2020	97546	\$162.56	\$0.00
November 9, 2020	S9999	\$28.33	\$0.00
November 11, 2020	97545	\$137.50	\$0.00
November 11, 2020	97546	\$162.56	\$0.00
November 11, 2020	S9999	\$28.33	\$0.00
November 13, 2020	97545	\$137.50	\$0.00
November 13, 2020	97546	\$162.56	\$0.00
November 13, 2020	S9999	\$28.33	\$0.00
Total		\$2717.31	\$0.00

Requestor's Position

The requestor did not submit a position statement but did submit a copy of their reconsideration that states, "I am appealing the claims which were processed for (claimant) for the above dates of service. These were not paid under the NM Worker's Compensation Fee Schedule."

Amount in Dispute: \$2,717.31

Respondent's Position

The provider is not entitled to medical fee dispute resolution for dates of service between October 12, 2020, and October 20, 2020, except to the degree that the Medical Review Division may find that the DWC-60 request for medical fee dispute resolution was not timely filed.

...the Texas Medical Fee Guidelines apply to all services whether they are in Texas or not when the provider is seeking reimbursement under a Texas Workers' Compensation claim.

Respondent submitted additional response December 17, 2021

...the Medical Review Division should issue a decision that the provider's DWC-60 was not timely filed for the dates of service between October 12th and October 20, 2020. ...If the services provided were not Work Conditioning services or Work Hardening services and there is no maximum allowable reimbursement for those specific services, the fact that the provider used CPT codes 97545 and 97546 are instructive as to the provider identifying them as the closest services that could be identified by CPT codes. That being the case, the reimbursement rate under Division rule 134.230 (2) and (3) should control.

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 §134.230 sets out the billing requirements and reimbursement of work rehabilitation programs.
3. 28 TAC 134.1 defines fair and reasonable reimbursement.

Denial Reasons

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

- 29 – Timely filing limit has expired
- FS001- Fee schedule reduction – standard
- R519 – The procedure does not fall within the Medicare Multiple Procedure guidelines, therefore recommended payment is based on 100% of the allowed amount for the procedure billed or the billed amount, whichever is less
- P5 – Based on payer reasonable and customary fees. No maximum allowable defined by legislated fee arrangement. To be used for Property and Casualty only.

Issues

1. Did the requestor waive the right to medical fee dispute resolution for dates of service October 12, 2020, to November 13, 2020?
2. Under what authority is the request for medical fee dispute resolution considered?
3. What Texas DWC fee schedule is applicable to disputed services?
4. Did the requestor support the amount requested met the definition of fair and reasonable?

Findings

1. DWC Rule 28 TAC §133.307(c)(1) states in pertinent part a requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request. A request for MFDR that does not involve issues of compensability, extent of injury, liability, medical necessity, or a refund shall be filed no later than one year after the date(s) of service in dispute.

The dates of the service in dispute are October 12, 2020, through November 13, 2020. The request for medical dispute resolution was received in the Medical Dispute Resolution (MDR) section on October 22, 2021. The dates of service October 12, 2020, through October 20, 2020, were submitted untimely to MFDR. Review of the submitted documentation does not support an exception exists. These dates of service will not be considered in this review.

2. The requestor is a health care provider that rendered disputed services in the state of New Mexico to an injured employee with an existing Texas Workers' Compensation claim. The health care provider was dissatisfied with the insurance carrier's final action. The health care provider requested reconsideration from the insurance carrier and was denied payment after reconsideration. The health care provider has requested medical fee dispute resolution under

28 Texas Administrative Code §133.307. Because the requestor has sought the administrative remedy outlined in 28 Texas Administrative Code §133.307 for resolution of the matter of the request for additional payment, the Division concludes that it has jurisdiction to decide the issues in this dispute pursuant to the Texas Workers' Compensation Act and applicable rules

3. Review of the utilization review found the authorized services were a Work Hardening Program, 60 hours (97545, 97546). The applicable DWC fee guideline for these codes is 28 TAC §134.230 3 (A) which states:

For division purposes, General Occupational Rehabilitation Programs, as defined in the CARF manual, are considered Work Hardening.

- (A) The first two hours of each session shall be billed and reimbursed as one unit, using CPT code 97545 with modifier "WH" Each additional hour shall be billed using CPT code 97546 with modifier "WH."

Review of the submitted medical bill did not include the required modifier. No additional reimbursement can be recommended.

4. Under the division's general reimbursement Rule at 28 TAC §134.1(e), payment for health care is calculated by applying a fee from an adopted Division rule or by applying a negotiated contract rate. In the absence of an applicable fee guideline or a negotiated contract, the payment is subject to the division's general fair and reasonable requirements described in 28 TAC 134.1 (f) found below.

There is no fee associated with code S9999 in the Medicare Physician fee schedule. No evidence of a contract was submitted. The DWC general fair and reasonable standard of payment applies to the disputed services.

The Division requested information on December 3, 2020, from both parties of documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement. The requestor did not respond to this request.

DWC Rule 28 TAC 134.1(f) required the health care provider to support their suggested reimbursement is:

- consistent with the criteria of Labor Code §413.011;
- by providing documentation of similar procedures provided in similar circumstances received similar reimbursement; and
- their suggested reimbursement is based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available.

Insufficient documentation was found to support reimbursement under fair and reasonable standard for code S9999. No additional reimbursement 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 not established that additional 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

Signature

Medical Fee Dispute Resolution Officer

January , 2022

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.