



# Medical Fee Dispute Resolution Findings and Decision

## General Information

**Requestor Name**

Dr. Jason R. Bailey

**Respondent Name**

Accident Fund Insurance Co. of America

**MFDR Tracking Number**

M4-22-0487-01

**Carrier's Austin Representative**

Box Number 06

**DWC Date Received**

November 4, 2021

## Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 18, 2021	CPT Code 99223, 26952, 11012, 64450	\$19,022.36	\$0.00
<b>Total</b>		\$19,022.36	\$0.00

## Requestor's Position

"Based on the information provided, I am requesting that this claim be **reviewed and reprocessed accordingly**; it should allow correct payment for a **medically necessary emergent** surgery. Dr. Sly's surgical expertise was required for proper patient improvement and surgical outcome."

**Amount in Dispute:** \$19,022.36

## Respondent's Position

"After review of the dispute and confirmation of the accuracy of the audit on these disputed charges, Accident Fund determined that the payment made conformed to the DWC fee guideline and the DWC's rules regarding reimbursement."

**Response Submitted by:** Stone Loughlin Swanson

## 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, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers' compensation system.

### Denial Reasons

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

- 52-Service performed resulted in the initial decision to perform the surgery.
- 59-Charges are adjusted based on multiple surgery rules or concurrent anesthesia rules.
- 78-The allowance for this procedure was adjusted in accordance with multiple surgical procedure rules and/or guidelines.
- 86-Service performed was distinct or independent from other services performed on the same day.
- P12-Workers' compensation jurisdictional fee schedule adjustment.
- 4063-Reimbursement is based on the physician fee schedule when a professional service was performed in the facility setting.
- W3-No additional reimbursement allowed after review of appeal/reconsideration request for second review.
- 1070-We are unable to recommend an additional allowance as your billing was reviewed in accordance with the Texas medical fee guidelines which were adopted by the Texas workers' compensation commission for workers' compensation claims.
- 1098-We are unable to recommend an additional allowance as your billing was reviewed in accordance with the Wyoming workers compensation rules, regulations, and fee schedules which were adopted by the Wyoming dept. of employment workers' safety and compensation division for workers' compensation claims.

### Issues

1. Is Dr. Jason R. Bailey entitled to additional reimbursement?

### Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$19,022.36 for CPT codes 99223, 26952 (X2), 11012 (X2), and 64450 rendered on May 18, 2021.

To determine if the disputed services are eligible for reimbursement the DWC refers to the following statute:

- 28 TAC §134.203(a)(5) states, "'Medicare payment policies' when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."
- 28 TAC §134.203(b)(1) states, "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."

Per 28 TAC §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 requestor noted on the CMS-1500 the Place of Service was "21" for an Inpatient Hospital setting; therefore, the facility setting rate applies.

The 2021 DWC Conversion Factor is 61.17

The 2021 Medicare Conversion Factor is 34.8931

Per the CMs 1500, the services were rendered in Cypress, TX; therefore, the Medicare locality is "Houston, Texas".

Using the above formula, the DWC finds the MAR is:

Code	Medicare Participating Amount	MAR	Insurance Carrier Paid	Amount Due
99223	\$205.24	\$359.80	\$359.80	\$0.00
26952-ET-F2	\$723.21	\$1,267.84	\$1,590.96	\$0.00
26952-ET-F3*	\$723.21	\$1,267.84 X 50% =\$633.92	\$795.48	\$0.00
11012-ET-F2-59*	\$432.64	\$758.45 X 50% =\$379.23	\$475.88	\$0.00
11012-ET-F3-59*	\$432.64	\$758.45 X 50% =\$379.23	\$475.88	\$0.00
64450-ET-XE-LT*	\$44.20	\$77.49 X 50% = \$38.75	\$97.24	\$0.00

\*Multiple Procedure Rule Discounting of 50% applies to code.

### 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	11/30/2021 Date
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### 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).