TDI Division of Workers' Compensation
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Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
FERGUSON FAMILY PRACTICE

Respondent Name
LIBERTY INSURANCE CORPORATION

MFDR Tracking Number
M4-22-0548-01

Carrier's Austin Representative
Box Number 01

DWC Date Received
November 15, 2021

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
February 8, 2021	99213 and 99080-73	$38.00	$38.00
	Total	$38.00	$38.00

Requestor's Position

"When the claim was processed, CPT code 99213 was only reimbursed $92.00... In this case 175% should have been multiplied to the Medicare reimbursement rate for CPT code 99213 of $89.05 ($89.05 * 1.75). The reimbursement should be $155.84. Since the provider billed an amount less than the Texas Worker's Comp Fee schedule, the carrier is required to pay the full amount of the billed charges of $115.00. Therefore, the carrier still owes the provider $23.00 for CPT code 99213. We have provided documentation to support our request... the carrier did not reimburse the correct amount for CPT Code 99080 Texas workers compensation passed a bill, effective 09/01/2019, stating that nurse practitioners now had the ability to bill for the DWC 73 report, or work status reports. According to Texas legislation under House Bill 387 under the labor code 408.025, 'A treating doctor may delegate to a physician assistant who is licensed to practice in this state under Chapter 204, Occupations Code, or an advanced practice registered nurse who is licensed to practice in this state under Chapter 301, Occupations Code.' I have provided documentation that shows that a nurse practitioner can now bill and be reimbursed for the DWC 73 report, or work status report."

Amount in Dispute: $38.00

Respondent's Position

"We have again reviewed again payment for the services of February 8, 2021 by Rosalind Holliday, FNPC and determined that reimbursement was issued according to the guidelines provided by the Texas Medical Fee Schedule. The payment of 99213 was issued correctly as your NPI shows your registered as a Nurse Practioner… CPT 99080 73 was denied with message 190 BILLING FOR REPORT AND/OR RECORD REVIEW EXCEEDS REASONABLENESS as a payment for 99080 73 was issued on 2/5/2021 to Ferguson Family Practice and payments for TWCC 73 forms should be issued once every 14 days per rule 129,5@ 3 [sic] on the schedule requested by the insurance carrier, its agent, or the employer requesting the report through its insurance carrier, which shall not exceed one report every two weeks and which shall be based upon the doctor's or delegated physician assistant's scheduled appointments with the injured employee."

Response Submitted by: Liberty Mutual Insurance

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 §134.239, effective July 7, 2016, sets out medical fee guidelines for workers' compensation specific services.
3. 28 TAC §134.203, effective March 1, 2008, sets out the reimbursement guidelines for professional services.
4. 28 TAC §129.5, effective July 16, 2000, sets out the procedure for reporting and billing work status reports

Denial Reasons

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

- 252 – The recommended allowance is based on the value for services performed by a licensed non-physician practitioner.
- W3 – Additional payment made on appeal/reconsideration
- B13 – Previously paid. Payment for this claim/service may have been provided in a previous payment.
- 878 – Fee schedule amount is equal to the charge.

Issues

1. What is the definition of the services in dispute?
2. Is the requestor due reimbursement for CPT code 99213?
3. Is the requestor due reimbursement for HCPCS Code 99080-73?
4. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor seeks additional reimbursement for CPT Codes 99213 and 99080-73 rendered on February 8, 2021. The insurance carrier denied reimbursement for the disputed services based upon reason codes "252" and "878" (description above).

   The fee guidelines for disputed services are found in 28 TAC §134.203. 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."

   CPT code 99213 is described as "Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: A detailed history; A detailed examination; Medical decision making of moderate complexity. Counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Typically, 25 minutes are spent face-to-face with the patient and/or family."

   A review of the submitted medical report supports billing code 99213; therefore, reimbursement is recommended.

   Per 28 TAC §134.203(b)(1), "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."

   Review of the CMS 1500 supports that the services were rendered by a Certified, Family Nurse Practitioner (FNP-C).

2. Per Texas Labor Code 408.025 titled *Reports and Records Required from Health Care Providers*, (a-1) states, (a-1) A treating doctor may delegate to a physician assistant who is licensed to practice in this state under Chapter 204, Occupations Code, or an advanced practice registered nurse who is licensed to practice in this state under Chapter 301, Occupations Code, the authority to complete and sign a work status report regarding an injured employee's ability to return to work. The delegating treating doctor is responsible for the acts of the physician assistant or advanced practice registered nurse under this subsection."

3. 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 2021 DWC Conversion Factor is 61.17

The 2021 Medicare Conversion Factor is 34.8931

Review of Box 32 on the CMS-1500 the services were rendered in San Marcos, Texas; therefore, the locality will be based on the rate for "Rest of Texas".

The Medicare Participating amount for CPT code 99213 at this locality is $89.05.

Using the above formula, the DWC finds the MAR is $156.11. The respondent paid $92.00. The requestor seeks an additional $23.00. As a result, reimbursement of $23.00 is recommended.

4. CPT code 99080-73 is described as "Special reports such as insurance forms, more than the information conveyed in the usual medical communications or standard reporting form."

   28 TAC §134.239 states, "When billing for a work status report that is not conducted as a part of the examinations outlined in §134.240 and §134.250 of this title, refer to §129.5 of this title."

   28 TAC §129.5(i)(1) states "Notwithstanding any other provision of this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the carrier, its agent, or the employer through its carrier, asks for an extra copy. The amount of reimbursement shall be $15. A doctor shall not bill in excess of $15 and shall not bill or be entitled to reimbursement for a Work Status Report which is not reimbursable under this section. Doctors are not required to submit a copy of the report being billed for with the bill if the report was previously provided. Doctors billing for Work Status Reports as permitted by this section shall do so as follows: (1) CPT code '99080' with modifier '73' shall be used when the doctor is billing for a report required under subsections (d)(1), (d)(2), and (f) of this section."

   28 TAC §129.5 (d)(1) and (2) states "The doctor shall file the Work Status Report: (1) after the initial examination of the employee, regardless of the employee's work status; (2) when the employee experiences a change in work status or a substantial change in activity restrictions."

   A review of the submitted documentations finds the injured employee was placed on work restrictions on February 5, 2021 through February 15, 2021; therefore, reimbursement of $15.00 is recommended for this report.

   The documentation does support the billing of CPT Code 99080-73, as a result, per 28 TAC §129.5 the requestor is entitled to reimbursement in the amount of $15.00.

5. The DWC finds that the requestor is therefore entitled to additional reimbursement in the amount of $38.00.

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.

The DWC finds the requester has established that additional reimbursement of $38.00 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 the Respondent must remit to the Requestor $38.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		January 26, 2022
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 electronico CompConnection@tdi.texas.gov.