

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

GARY S. WHITING PHD

Respondent Name

STATE OFFICE OF RISK MANAGEMENT

MFDR Tracking Number

M4-22-0582-01

Carrier's Austin Representative

Box Number 45

DWC Date Received

November 23, 2021

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 19, 2020	90791, 96130and 96136	\$750.00	\$0.00
May 4, 2021 and May 26, 2021	90837 x 2	\$550.00	\$522.90
June 23, 2021	90837	\$275.00	\$0.00
August 16, 2021 and August 23, 2021	90837 x 2	\$550.00	\$0.00
Total		\$2,125.00	\$522.90

Requestor's Position

"For the bills for DOS 10/19/2020 and 05/04/2021-05/26/2021, I had been told by both the adjuster and adjuster supervisor..., that the "extent of injury" decision was made in June 2021, so these two bills would be sent back for reprocessing and paid. I have been unable to get them processed by the carrier, however, and am no longer receiving return calls... The last two denials that I received stated 'modifiers needed' (not true), and 'dx not covered' (which was not the case during this DOS). I am unable to get a straight answer from SORM on these denials, and every resubmittal results in a denial for the same reasons... For the DOS 08/16/21-08/23/21, a denial of 'dx not covered' was again used to avoid having to properly process these bills. I have resubmitted this bill with the Designated Doctor report and have not been able to get the insurance carrier to reprocess this bill accordingly."

Amount in Dispute: \$2,125.00

Respondent's Position

"Further review of the dates in dispute finds that date of service 10/19/2020 are not eligible for medical fee dispute resolution due to not being received by the Division within one year from this date of service... The Office will agree out of good faith that payment for dates of service 5/4/21-5/26/2021 will be made as these service dates are prior to the PLN 11 being filed for the adjustment disorder as documented in the injured worker's medical records... Furthermore, the Office respectfully requests the Division to partially dismiss the request for dispute for dates of service 6/23/2021, 8/16/2021 and 8/23/2021 pursuant to Rule §133.307 (f)(3)(C) and §133.307 (f)(3)(A) as there are unresolved compensability, extent of injury or liability disputes on this claim for the dates of service eligible for resolution and further not filing an appeal for dates of service 6/23/21."

Response Submitted by: SORM

Findings and Decision

Authority

This medical fee dispute is decided according to Texas Labor Code (TLC) §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Statutes and Rules

1. 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. TLC, Chapter 413 sets out the rights and responsibilities related to medical dispute resolution.
3. 28 TAC §133.240 sets out the requirements for submission of a medical bill.
4. 28 TAC §133.305 sets out the procedures for resolving medical disputes.
5. 28 TAC §133.20 sets out the medical bill submission procedures for health care providers.
6. 28 TAC §102.4 sets out the rules for non-Commission communications.
7. TLC §408.027 sets out the rules for timely submission of claims by health care providers.
8. TLC §408.0272 provides for certain exceptions to untimely submission of a medical bill.
9. 28 TAC §134.203 sets out the fee guideline for professional medical services.

Denial Reasons

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

- 16 – Claim/service lacks information which is needed for adjudication.
- 251 – The attachment content received did not contain the content required to process this claim or service.
- Note: Billed DX and/or documentation does not support services are being rendered for the compensable injury. Please resubmit with DX codes that are related to workers compensable injury.
- 4- The procedure code is inconsistent with the modifier used or a required modifier is missing.

- Note: Documentation does not support services rendered. No SOAP notes nor discussion of what the patient goals and rehab are and what has been achieved.
- 29 – The time limit for filing has expired.
- 219 – Based on extent of injury.

Issues

1. Did the requestor waive the right to medical fee dispute resolution for date of service October 19, 2020?
2. Did the insurance carrier submit documentation to support that payment was issued for dates of service May 4, 201 and May 26, 2021?
3. What is the timely filing deadline applicable to date of service June 23, 2021?
4. Is the Requestor eligible for DWC medical fee dispute resolution for dates of service August 16, 2021 and August 23, 2021?
5. Is the requestor entitled to reimbursement for the dates of service in dispute?

Findings

1. The requestor seeks reimbursement for medical services rendered on October 19, 2020.

28 TAC §133.307(c) (1) states in pertinent part, "Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute."

The date of the service in dispute is October 19, 2020. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on November 23, 2021. This date is later than one year after the date of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in 28 TAC §133.307(c) (1) (B). The Division concludes that the requestor has failed to timely file date of service October 19, 2020 with the Division's MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for date of service October 19, 2020.

2. The requestor seeks reimbursement for CPT Code 90837 rendered on May 4, 2021 and May 26, 2021. The insurance carrier states in pertinent part, "The Office will agree out of good faith that payment for dates of service 5/4/21-5/26/2021 will be made as these service dates are prior to the PLN 11 being filed for the... as documented in the injured worker's medical records."

No documentation was submitted by the insurance carrier to support that a payment was issued, as a result the DWC will calculate reimbursement for CPT Codes 90837 rendered on May 4, 2021 and May 26, 2021.

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.”

- CPT Code 90837 is defined as “Psychotherapy, 60 minutes with patient.”

28 TAC §134.203 states in pertinent part, “(c) 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...”

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
- Per the medical bills, the services were rendered in San Antonio, TX; therefore, the Medicare locality is “Rest of Texas.”
- The Medicare Participating amount for CPT code 90837 at this locality is \$149.14.
- Using the above formula, the DWC finds the MAR is \$261.45.
- The respondent paid \$0.00.
- Reimbursement of \$261.45 is recommended for date of service May 4, 2021 and May 26, 2021 for a total recommended amount of \$522.90.

3. The requestor seeks reimbursement for CPT Code 90837 rendered on June 23, 2021. The insurance carrier denied/reduced the service in dispute with reduction code(s), “29” (description provided above.)

The insurance carrier states in pertinent part, “Additional research further revealed that date of service 6/23/21 was denied for 29-time limit for filing has expired, this denial will be maintained as there is no evidence submitted that supports bill meets the criteria pursuant to Texas Labor Code §408.0272 to waive timely filing. Furthermore, the requester has not filed a request for reconsideration for this date of service pursuant to 28 TAC Rule 133.250, therefore this date of service is also ineligible for review pursuant to Rule §133.307 (f)(3)(A).”

28 TAC §133.20(b) requires that, except as provided in TLC §408.0272, “a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.” No documentation was found to support that any of the exceptions described in TLC §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not-later than 95 days after the date the disputed services were provided.

TLC §408.027(a) states, in pertinent part, that "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 §102.4(h) states that "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."

Review of the submitted information for date of service, June 23, 2021, finds insufficient documentation to support that a medical bill was submitted within 95 days from the date the services were provided. Therefore, pursuant to TLC §408.027(a), the requestor has forfeited the right to reimbursement due to untimely submission of the medical bill for the disputed services.

4. The requestor seeks reimbursement for CPT Code 90837 rendered on August 16, 2021 and August 23, 2021. The insurance carrier denied/reduced the disputed services with reduction code(s) "219" (description provided above.)

The insurance carrier states in pertinent part, "Dates of service 8/16/2021 and 8/23/21 will continue to be denied as the medical documentation supports that the evaluation/treatment was for conditions that were disputed on 6/7/2021."

The DWC finds that if a dispute over the compensability of the injury, extent of/relatedness to the covered injury, liability for the injury exists for the same service(s) for which there is a medical fee dispute, 28 TAC §133.305 (b) states that the compensability, extent of injury/relatedness, liability dispute must be resolved before submission of a medical fee dispute resolution request for the service(s).

The insurance carrier denied payment due to an unresolved compensability, extent of injury/relatedness, liability issue. The insurance carrier notified the requestor of the denial on an explanation of benefits as defined by 28 TAC §133.240.

The insurance carrier also presented a copy of a Plain Language Notice for the issue to DWC, as required by 28 TAC §133.307 (d)(2)(H). No evidence was submitted to indicate that the issue was resolved before submitting this request for medical fee dispute resolution.

DWC concludes that an unresolved compensability, extent of injury/relatedness, liability issue exists for the service(s) in dispute.

DWC finds that good cause exists to dismiss dates of service August 16, 2021 and August 23, 2021 according to 28 TAC §133.307 (f)(3).

5. The DWC finds that the requestor is entitled to reimbursement for dates of service May 4, 2021 and May 26, 2021 in the amount of \$522.90, therefore this amount 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 established that reimbursement of \$522.90 is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed services. It is ordered that the Respondent must remit to the Requestor \$522.90 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		January 7, 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 electrónico CompConnection@tdi.texas.gov.