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

General Information

Requestor Name
MILLENNIUM CHIROPRACTIC

Respondent Name
AMERICAN ZURICH INSURANCE COMPANY

MFDR Tracking Number
M4-22-0749-01

Carrier's Austin Representative
Box Number 19

DWC Date Received
December 20, 2021

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 21, 2020 through February 1, 2021	97799-CP-GP and 97750-FC	$3,273.76	$3,138.56
	Total	$3,273.76	$3,138.56

Requestor's Position

"The services rendered on the above dates of service were pre-authorized by the carrier (see enclosed pre-authorization letter), and were performed and billed in accordance with the ODG and Medical Fee Guideline and MUST BE PAID. For NONE of the above dates has the carrier ever sent EOBs. IN FACT, THE CARRIER HAS NOT SENT US EOBs FOR THIS CASE SINCE DECEMBER 2020."

Amount in Dispute: $3,273.76

Respondent's Position

The Austin carrier representative for American Zurich Insurance Company is Flahive Ogden & Latson. Flahive Ogden & Latson was notified of this medical fee dispute on December 29, 2021. Rule §133.307(d)(1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division may base its decision on the available information. As of today, no response has been received from the carrier or its representative. We therefore base this decision on the information available as authorized under §133.307(d)(1).

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 (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.230 sets out the fee guideline for return-to-work rehabilitation programs.
3. 28 TAC §134.600 sets out preauthorization, concurrent utilization review, and voluntary certification of health care.
4. 28 TAC §134.225, effective July 7, 2016, sets the reimbursement guidelines for FCEs.

Denial Reasons

The insurance carrier did not respond to the DWC060 request. The requestor did not submit copies of EOBs with the DWC060 request.

Issues

1. Did the requestor meet the requirements of 28 TAC 133.307 (2)(K)?
2. Did the requestor obtain preauthorization for the chronic pain management services in dispute?
3. Is the requestor entitled to reimbursement for CPT Code 97750-FC?
4. Is the Requestor entitled to reimbursement?

Findings

1. The requestor seeks reimbursement for CPT Code 97799-CP rendered on December 21, 2020 through December 23, 2020 and CPT Code 97750-FC rendered on February 1, 2021. The insurance carrier did not respond to the DWC060 request.

   28 TAC §133.307 (2)(K) states, "(2) Health Care Provider or Pharmacy Processing Agent Request. The requestor must send the request to the division in the form and manner prescribed by the division by any mail service, personal delivery, or electronic transmission as described in §102.5 of this title. The request must include… (K) each explanation of benefits or e-remittance (collectively "EOB") related to the dispute as originally submitted to the health care provider in accordance with this chapter or, if no EOB was received, convincing documentation providing evidence of insurance carrier receipt of the request for an EOB…"

   Review of the DWC060 included sufficient documentation to support that the requestor made an attempt to obtain EOBs for the services in dispute. As, a result, the disputed services are eligible for MFDR review.

2. The requestor seeks reimbursement for CPT Code 97799-CP rendered on December 21, 2020 through December 23, 2020.

   Review of the medical bills documents that the disputed services were rendered and billed by Karen Austin, D.C.

   28 TAC §134.600(p)(10) states, "Non-emergency health care requiring preauthorization includes… (10) chronic pain management/interdisciplinary pain rehabilitation…"

   The requestor submitted a copy of a preauthorization letter issued by Medinsights, dated December 3, 2020 to support that preauthorization was obtained for a chronic pain management program, 80 units (97799) start date of December 3, 2020 and end date June 3, 2021.

   The chronic pain management services in dispute are dated December 21, 2020 through December 23, 2020. The DWC finds that the services in dispute, were rendered within the preauthorized timeframe. Reimbursement is therefore recommended.

   The fee guideline for chronic pain management services is found in 28 TAC §134.230.

   28 TAC §134.230(1) states "Accreditation by the CARF is recommended, but not required. (A) If the program is CARF accredited, modifier "CA" shall follow the appropriate program modifier as designated for the specific programs listed below. The hourly reimbursement for a CARF accredited program shall be 100 percent of the maximum allowable reimbursement (MAR). (B) If the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR."

   The requestor billed 97799-CP; therefore, the disputed program is not CARF accredited, and reimbursement shall be 80% of the MAR.

   28 TAC §134.230(5) states, "The following shall be applied for billing and reimbursement of Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs. (A) Program shall be billed and reimbursed using CPT code 97799 with modifier "CP" for each hour. The number of hours shall be indicated in the unit's column on the bill. CARF accredited programs shall add "CA" as a second modifier. (B) Reimbursement shall be $125 per hour. Units of less than one hour shall be prorated in 15-minute increments. A single 15-minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes."

Date of Service	CPT Code	# Units	$125 x 80% MAR = $100	Disputed Amount	Amount Recommended
12/21/2020	97799-CP	8	$800.00	$800.00	$800.00
12/22/2020	97799-CP	8	$800.00	$800.00	$800.00
12/23/2020	97799-CP	8	$800.00	$800.00	$800.00
TOTALS		24	$2,400.00	$2,400.00	$2,400.00

   The DWC finds that the requestor is entitled to reimbursement in the amount of $2,400.00 for CPT Code 97799-CP rendered on December 21, 2020 through December 23, 2020.

3. The requestor seeks reimbursement in the amount of $873.76 for CPT Code 97750-FC (x 16 units) rendered on February 1, 2021.

   The applicable fee guideline for FCEs is found at 28 TAC §134.225.

   28 TAC §134.225 states, "The following applies to functional capacity evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c)(1) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a division ordered test; a maximum of two hours for an interim test; and a maximum of three hours for the discharge test unless it is the initial test. Documentation is required."

   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."

   On the disputed dates of service, the requestor billed CPT code 97550-FC (x 16). The multiple procedure rule discounting applies to the disputed service.

   Medicare Claims Processing Manual Chapter 5, 10.3.7-effective June 6, 2016, titled Multiple Procedure Payment Reductions for Outpatient Rehabilitation Services, states:

   > Full payment is made for the unit or procedure with the highest PE payment.
   >
   > For subsequent units and procedures with dates of service prior to April 1, 2013, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment is made for the PE for services submitted on professional claims (any claim submitted using the ASC X12 837 professional claim format or the CMS-1500 paper claim form) and 75 percent payment is made for the PE for services submitted on institutional claims (ASC X12 837 institutional claim format or Form CMS-1450).
   >
   > For subsequent units and procedures with dates of service on or after April 1, 2013, furnished to the same patient on the same day, full payment is made for work and malpractice and 50 percent payment is made for the PE for services submitted on either professional or institutional claims.
   >
   > To determine which services will receive the MPPR, contractors shall rank services according to the applicable PE relative value units (RVU) and price the service with the highest PE RVU at 100% and apply the appropriate MPPR to the remaining services. When the highest PE RVU applies to more than one of the identified services, contractors shall additionally sort and rank these services according to highest total fee schedule amount, and price the service with the highest total fee schedule amount at 100% and apply the appropriate MPPR to the remaining services.

The MPPR Rate File that contains the payments for 2021 services is found at https://www.cms.gov/Medicare/Billing/TherapyServices/index.html

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).

- MPPR rates are published by carrier and locality.
- Review of Box 32 on the CMS-1500 finds that the services were rendered in zip code 75061 which is located in Irving, Texas; therefore, the Medicare locality is "Dallas, Texas."
- The Medicare participating amount for CPT code 97750 at this locality is $35.06 for the first unit, and $25.75 for subsequent units.
- The DWC conversion factor for 2021 is 61.17
- The Medicare conversion factor for 2021 is 34.8931.

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = Maximum Allowable Reimbursement (MAR).

- Using the above formula, the MAR is $61.46 for the first unit, and $45.14 for the subsequent units.
- 97750 x $61.46 x 1 unit = MAR $61.46.
- 97750 x 15 units x $45.14 = MAR for a total of $677.10.
- $61.46 for first unit + $677.10 for 15 units = Total MAR $738.56.
- The respondent paid $0.00.
- The difference between MAR and amount paid is $738.56; this amount is recommended for reimbursement.

4. The DWC finds that the requestor is therefore entitled to a total reimbursement amount of $3,138.56.

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 reimbursement of $3,138.56 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 $3,138.56 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		July 15, 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.