

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

NUEVA VIDA BEHAVIORAL HEALTH

**Respondent Name**

NEW HAMPSHIRE INSURANCE COMPANY

**MFDR Tracking Number**

M4-22-0752-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

December 13, 2021

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 13, 2021 and May 20, 2021	90837 x 2	\$325.00	\$325.00
	<b>Total</b>	\$325.00	\$325.00

### Requestor's Position

"Nueva Vida obtained preauthorization for 8 sessions of Individual Psychotherapy on 2/12/2021. Authorization #4027877 was issued for the 8 sessions with a date range of 2/09/21 -7/09/21. The date of service being denied for payment is 5/13/2021. This date of service was performed within the authorized timeframe and was denied in error. Denying preauthorized health care services is an administrative violation in accordance with Rule 133.301 (a)."

**Amount in Dispute:** \$325.00

### Respondent's Position

"We are attaching a copy of the provider's CMS-1500s and the carrier's EORs. Those EORs explain the carrier's position. The provider is not entitled to reimbursement."

**Response Submitted by:** Flahive, Ogden & Latson

### 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 §134.600 sets out the procedure for Preauthorization, Concurrent Utilization Review, and Voluntary Certification of Health Care.
3. 28 Texas Administrative Code §134.203 sets out the sets out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.

## Denial Reasons

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

- 5264 – Payment is denied service not authorized.
- 197 – Payment denied/reduced for absence of precertification/authorization.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
- 50 – These are non-covered services because this is not deemed a medical necessity by the payer.

## Issues

1. What is the definition of CPT code 90837?
2. Is the insurance carrier's denial reason supported?
3. Is the requestor entitled to reimbursement for the services in dispute?

## Findings

1. The requestor seeks reimbursement for CPT Code 90837 rendered on May 13, 2021 and May 20, 2021.

Per 28 TAC §134.203 "(b) 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."

The AMA CPT Code Book defines CPT code 90837 as "Psychotherapy, 60 minutes with patient and/or family member."

2. The carrier denied the disputed service with denial reasons 5264, 50 and 197 (description provided above.) Per 28 TAC §134.600 "(p) non-emergency health care requiring preauthorization includes: (7) all psychological testing and psychotherapy, repeat interviews, and biofeedback, except when any service is part of a preauthorized or division exempted return-to-work rehabilitation program."

The requestor submitted a copy of a preauthorization letter issued by Sedgwick, dated February 12, 2021, authorizing 8 sessions of individual psychotherapy, with a date range of 2/09/21 - 7/09/21, reference #4027877. The DWC finds that the insurance carrier's denial reasons are therefore not supported. The requestor rendered individual psychotherapy on May 13, 2021 and May 20, 2021 within the preauthorized timeframes. As a result, the requestor is entitled to reimbursement for the disputed services.

28 TAC §134.600 states in relevant part, "(c) The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur: (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care."

3. 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..."

28 TAC §134.203 states in pertinent part, "(h) When there is no negotiated or contracted amount that complies with Labor Code §413.011, reimbursement shall be the least of the: (1) MAR amount; (2) health care provider's usual and customary charge, unless directed by Division rule to bill a specific amount; or (3) fair and reasonable amount consistent with the standards of §134.1 of this title."

The following formula represents the calculation of the DWC MAR:

$(\text{DWC Conversion Factor} \div \text{Medicare Conversion Factor}) \times \text{Medicare Payment} = \text{MAR}$ .

- The services were provided in San Antonio, Texas.
- The locality for San Antonio, TX is "Rest of Texas."
- The DWC Conversion factor for 2021 is 64.17.
- The Medicare Conversion factor for 2021 is 34.8931.

The Medicare participating amount is \$149.14. Using the above formula, the MAR reimbursement is \$261.45 x 2 dates of service, for a total amount of \$522.91. The insurance carrier paid \$0.00. The requestor seeks \$325.00, applicable 28 TAC 134.203(h) states that the total reimbursement is the lesser of the maximum allowable reimbursement (MAR) and the billed amount, as a result the requestor is entitled to \$325.00.

The DWC finds that the requestor is entitled to reimbursement in the amount of \$325.00 for CPT Code 90837 rendered on May 13, 2021 and May 20, 2021.

## 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 requestor has established that reimbursement is in the amount of \$325.00 is due.

## **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is not entitled to reimbursement for the disputed services.

## **Authorized Signature**

_____	_____	January 13, 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](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).