



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

MICHAEL TODD SMITH DC

Respondent Name

INDEMNITY INSURANCE COMPANY

MFDR Tracking Number

M4-22-0850-01

Carrier's Austin Representative

Box Number 15

DWC Date Received

January 10, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 17, 2021	CPT Code 97750-GP (X 8) Physical Performance Evaluation (PPE)	\$482.16	\$377.44
Total		\$482.16	\$377.44

Requestor's Position

"The Maximum Allowable Reimbursement (MAR) for Workers' Compensation is configured by the Conversion Factor (which is a combination of the Medicare and DWC Conversation Factors.) multiplied by the Participating Provider fee. Please see attached fee schedule. The charge does not exceed the fee schedule."

Amount in Dispute: \$482.16

Respondent's Supplemental Position

"Our initial response to the above referenced medical fee dispute resolution is as follows: we have escalated the bills in question for manual review to determine if additional monies are owed."

Response Submitted by: Gallagher Bassett

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 §134.210, effective July 7, 2016, sets out the medical fee guideline for workers' compensation specific services in the Texas workers' compensation system.
3. 28 TAC §134.225, sets the reimbursement guidelines for FCEs.
4. 28 TAC §134.235, sets the reimbursement guideline for return to work/evaluation of medical care.
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.

Denial Reasons

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

- 5721 - TO AVOID DUPLICATE BILL DENIAL FOR ALL RECONSIDERATIONS/ ADJUSTMENTS/ ADDITIONAL PAYMENT REQUESTS SBMIT A COPY OF THIS EOR OR CLEAR NOTATION
- 90403 - PAYMENT DECISION IS BING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROESSED PROPERLY.
- 90950 - THIS BILL IS A RECONSIDERATIONOF A PREVIOUSLY REVIEWED BILL. ALLOWANCE AMOUNTS REFLECT ANY CHANGES THE PREVIOUS PAYMENT
- 193 - ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW. IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY
- 29 - THE TIME LIMIT FOR FILING HAS EXPIRED
- 4271 - PER TX LABOR CODE SEC. 408.027, PROVIDERS MUST SUBMIT BILLS TO PAYORS WITHIN 95 DAYS OF THE DATE OF SERVICE.
- 112 - PAYMENT ADJUSTED AS NOT FURNISHED DIRECTLY TO THE PATIENT AND/OR NOT DOCUMENTED.
- 119 - BENEFIT MAXIMUM FOR THIS TIME PERIOD OR OCCURRENCE HAS BEEN REACHED.
- 163 – THE CHARGE FOR THIS PROCEDURE EXCEEDS THE UNIT VALUE AND/OR THE MULTIPLE PROCEDURE RULES.

Issues

1. What is the timely filing deadline applicable to the service in dispute?
2. Are the insurance carrier's denial reasons supported?
3. What rules apply to reimbursement of CPT Code 97750-GP?
4. Is the requestor entitled to reimbursement for the service in dispute?

Findings

1. The requestor seeks medical fee dispute resolution for CPT code 97750-GP (X 8) rendered on June 17, 2021 in the amount of \$482.16. The respondent denied the disputed CPT code for timely filing.

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 finds an EOB dated July 19, 2021. The DWC therefore finds that the insurance carrier's denial for timely filing is not supported. Therefore, service in dispute is reviewed pursuant to the applicable fee guidelines.

2. The insurance carrier denied the service in dispute with denial reduction code 119 and 163 (description indicated above).

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 97750 is described as, "Physical performance test or measurement (eg, musculoskeletal, functional capacity), with written report, each 15 minutes "

The requestor appended the "GP" modifier to both codes. The "GP" modifier is described as "Services delivered under an outpatient physical therapy plan of care."

Per CMS' Billing and Coding: Outpatient Physical and Occupational Therapy Services, Article ID A56566, effective October 1, 2020:

These tests and measurements are beyond the usual evaluation services performed. Examples of physical performance tests or measurements include isokinetic testing, Functional Capacity Evaluation (FCE) and Tinetti. This code may be used for the 6-minute walk test, with a computerized report of the patient's oxygen saturation levels with increasing stress levels, performed under a PT or OT plan of care on pulmonary rehabilitation patients.

The therapy evaluation and re-evaluation codes are for a comprehensive review of the patient including, but not limited to, history, systems review, current clinical findings, establishment of a therapy diagnosis, and estimation of the prognosis and determination and/or revision of further treatment. CPT 97750 is intended to focus on patient performance of a specific activity or group of activities (CPT Assistant, December 2003).

There must be written evidence documenting the problem requiring the test, the specific test performed, and a separate measurement report. This report may include torque curves and other graphic reports with interpretation.

97750 should not be used to bill for patient assessments/re-assessments such as ROM testing or manual muscle testing completed at the start of care (as this is typically part of the examination included in the initial evaluation) and/or as the patient progresses through the episode of treatment.

CPT code 97750 is not covered on the same day as CPT codes 97161-97168 (due to CCI edits).

Supportive Documentation Requirements (required at least every 10 visits) for 97750

- Problem requiring the test and the specific test performed
- Separate measurement report, including any graphic reports
- Application to functional activity
- How the test impacts the plan of care

The DWC finds that the requestor documented and billed a physical performance test and therefore the insurance carrier's denial reasons are not supported. Reimbursement is recommended.

3. 28 TAC §134.203(c)(1) states, "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..."

On the disputed dates of service, the requestor billed CPT code 97550-GP (X 8). 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>.

- The date of service is June 17, 2021
- 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 75043; 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 x 7 units = \$315.98 for the subsequent units, for a total of \$377.44. The respondent paid \$0.00. The difference between the MAR and amount paid is \$377.44; this amount is recommended for reimbursement.

The DWC finds that the requestor is entitled to reimbursement in the amount of \$377.44

4. The DWC finds the requestor has established that reimbursement is due for CPT Code 97750-GP rendered on June 17, 2021. As a result, \$377.44 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.

The DWC finds the requester has established that reimbursement is in the amount of \$377.44 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 \$377.44 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

_____	_____	May 24, 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.