



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Grapevine Surgicare

Respondent Name

Texas Mutual Insurance Company

MFDR Tracking Number

M4-22-0863-01

Carrier's Austin Representative

Box Number 54

DWC Date Received

January 10, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
August 31, 2021	Ambulatory Surgical Care Services (ASC), CPT Code 26356-F9	\$0.00	\$0.00
	ASC CPT Code 64910-F9	\$4,557.07	
	ASC CPT Code 64910-59-F9	\$1,323.07	
	ASC HCPCS Code L8699	\$3,002.12	
Total		\$7,554.95	\$0.00

Requestor's Position

This clean claim was billed requesting the surgical procedure be paid at 153% of CMS with separate reimbursement for our implants.

Amount in Dispute: \$7,554.95

Respondent's Position

According to research the initial bill received for audit did not include invoice for implants or signed certification for the implants. Review of the audit confirms that payment was made per device intensive payment method which is 235% of the service portion, plus device portion for cpt code 64910 per code description, the additional line for cpt code 64910 was paid 50% due to multiple procedure reduction, cpt code 26356 was paid 153% per non device intensive

procedure. Payment to the implant line was made for the device portion instead of adding it to the appropriate procedure line.

The appeal from the facility was received, upon review of the appeal the provider did not request separate reimbursement, nor did they send a sign certification of cost for the implants for the appropriate date of service. Implant invoice was received. However, the implant invoice is dated 9/30/2021 (after the date of service). The provider did not fully comply per Rule 134.402(f)(1)(B)(2)(B)(g) at the time of the audit for the appeal ...

Texas Mutual reviewed the audit once again and determined that based on bill documentation received, payment should have been 235% per Rule 134.402 ...

Facility did not request reimbursement or fully comply per Rule 134.402 and Rule 133.250 to request separate reimbursement or fully comply per Rule 134.402 and Rule 133.250 to request separate reimbursement for implants therefore recommended payment is \$9149.76. Texas Mutual paid \$10,524.14.

Response Submitted by: Texas Mutual Insurance Company

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 §134.402 sets out the fee guidelines for ASC services.

Denial Reasons

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

- CAC-P12-Workers' compensation jurisdictional fee schedule adjustment.
- 790-This charge was reimbursed in accordance to the Texas medical fee guideline.
- CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- CAC-131-Claim specific negotiated discount.
- CAC-59-Processed based on multiple or concurrent procedure rules. (For example multiple surgery or diagnostic imaging, concurrent anesthesia).
- DC3-Additional reimbursement allowed after reconsideration.
- DC4-No additional reimbursement allowed after reconsideration.

- D25-Approved non-network provider for WorkWell. TX Network claimant per rule 1305.153(C).
- 615-Payment for this service has been reduced according to Medicare multiple surgery guidelines.
- 763-Paid per ASC FG at 235%; implants not applicable or separate reimbursement (w/signed cert) not requested: Rule 134.402(G).
- A09 – Per the rules adopted by TDI/DWC there appears to be a distinction between drugs, biologicals, and radiopharmaceuticals and *implantables: 134.403(B)(2) implantable means an object or device that is surgically: (A) implanted, (B) embedded, (C) inserted, (D) or otherwise applied, and (E) related equipment necessary to operate, program and recharge the implantable, nerve graft and axoguard nerve connector AR considered biological material. 790, 763, 615 – Payment allowed per device intensive method. Reimbursement is 235% of service portion (\$2326.34, \$1163.17) of Medicare’s geographically adjusted fully implemented rate. 790 – Payment for implants (\$2748.79, \$2748.79) is being paid per Medicare device portion. 615 – 26356 allowed per ASC fee.

Issues

1. Is Grapevine Surgicare entitled to additional reimbursement?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$7,554.95 for ASC services rendered on August 31, 2021.

The respondent contends that additional reimbursement is not due because “recommended payment is \$9149.76. Texas Mutual paid \$10,524.14.”

The fee guidelines for disputed services are found in 28 TAC §134.402(f).

The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the Federal Register. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the Federal Register, or its successor. The following minimal modifications apply:

- A. Per Addendum AA, CPT code 26356 is a non-device intensive procedure.

28 TAC §134.402(f)(1)(B) states,

(1) Reimbursement for non-device intensive procedures shall be:

(B) if an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the non-device intensive procedure shall be the sum of:

(i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission; and

(ii) the Medicare ASC facility reimbursement amount multiplied by 153 percent.

The following formula was used to calculate the maximum allowable reimbursement (MAR):

The Medicare ASC reimbursement for code 26356 August 2021 is \$1,328.25.

The Medicare ASC reimbursement is divided by 2 = \$664.13.

This number multiplied by the City Wage Index for Grapevine, Texas of 0.9744 = \$647.13.

Add these two together = \$1,311.26.

To determine the MAR, multiply the geographically adjusted Medicare ASC reimbursement by the DWC payment adjustment factor of 153% = \$2,006.23.

B. Per Addendum AA, CPT codes 64910 is a device intensive procedure.

28 TAC §134.402(f)(2)(B) states,

(2) Reimbursement for device intensive procedures shall be:

(B) If an ASC facility or surgical implant provider requests separate reimbursement for an implantable, reimbursement for the device intensive procedure shall be the sum of:

(i) the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission; and

(ii) the ASC service portion multiplied by 235 percent.

The following formula was used to calculate the MAR:

- Step 1 calculating the device portion of the procedure:

The national reimbursement is found in the Addendum B for National Hospital Outpatient Prospective Payment System (OPPS) code 64910 for August 2021 = \$5,700.29.

The device dependent APC offset percentage for National Hospital OPPS found in Addendum P for code 64910 for CY 2021 is 45.91%.

Multiply these two = \$2,617.00.

- Step 2 calculating the service portion of the procedure:

Per Addendum AA, the Medicare ASC reimbursement rate for code 64910 for August 2021 is \$3,796.23.

This number is divided by 2 = \$1,898.12.

This number multiplied by the City Wage Index for Grapevine, Texas of 0.9744 = \$1,849.53.

The sum of these two is the geographically adjusted Medicare ASC reimbursement = \$3,747.65.

The service portion is found by taking the geographically adjusted rate minus the device portion = \$1,130.65.

Multiply the service portion by the DWC payment adjustment of 235% = \$2,657.03.

CPT code 64910 is a secondary procedure to code 26356. CPT code 64910 is subject to multiple procedure rule discounting of 50%. Grapevine Surgicare billed for two units of this code. Therefore, the MAR for both units is reduced by 50%, which is $\$1,328.52 \times 2 = \$2,657.04$.

- C. The requestor is seeking separate reimbursement for the implantables with HCPCS code L8699.

In its position statement, Texas Mutual Insurance Company argued that "the implant invoice is dated 9/30/2021 (after the date of service)."

Per 28 TAC §134.402(g)(1)(B), the health care provider is required to submit "a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable."

When submitting a medical bill, rule 28 TAC §133.210(c)(4) requires a health care provider to include any supporting documentation for services that do not have an established MAR and the exact description of the service provided. Since surgically implanted devices do not have an established MAR, 28 TAC §133.210(c)(4) of this title applies.

DWC finds that the documentation is not sufficient to support the implantables provided on the date of the service in question.

DWC finds the total MAR for the ASC services rendered on August 31, 2021, is \$4,663.27. The respondent paid \$10,524.14. The DWC recommends no additional payment.

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 not established that additional reimbursement is due.

Order

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

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

March 22, 2022

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.