

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Glenn J. Bricken, PhD

Respondent Name

Work First Casualty Co.

MFDR Tracking Number

M4-222-0871-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

January 12, 2022

Summary of Findings

| Dates of Service | Disputed Services | Amount in Dispute | Amount Due |
|------------------|---------------------|-------------------|-------------------|
| January 28, 2021 | CPT Code 90791 (X2) | \$570.00 | \$310.00 |
| | CPT Code 96130 | \$225.00 | \$206.67 |
| | CPT Code 96131 (X2) | \$370.00 | \$312.82 |
| | CPT Code 96136 | \$95.00 | \$78.89 |
| | CPT Code 96137 (X3) | \$285.00 | \$141.82 |
| Total | | \$1,545.00 | \$1,050.20 |

Requestor's Position

"This bill was faxed timely to the Carrier on 03/02/2021 with a response to send the claims to EK Health Services. It was faxed to EK Health Services on 04/14/2021 with proof of timely filing. We received an EOB's on 06/07/2021 with 2 denials, i.e., original payment decision is being maintained, upon review, it was determined that this claim was processed properly (we have no original EOB) and adjuster bill review denial. An appeal was faxed on 09/13/21 with proof of timely filing and prior authorization. The appeal was denied, maintaining original decision and per claims adjuster. Not sure which original decision was maintained."

Amount in Dispute: \$1,545.00

Respondent's Position

The Austin carrier representative for Work First Casualty Co. is Flahive, Ogden & Latson. Flahive, Ogden & Latson received a copy of this medical fee dispute on January 19, 2022. 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 §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.203, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers' compensation system.

Denial Reasons

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

- TX193-The state of Texas has identified this zip code as one that receives an additional 10% bonus.
- TX350-Bill has been identified as a request for reconsideration or appeal
- TX193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- TXW3-In accordance with TDI-DWC Rule 134.804, this bill has been identified as a request.
- The payment was reviewed using an existing PPO contracted arrangement.

Issues

1. Is Work First Casualty Company's denial based on PPO contracted arrangement supported?
2. Is Dr. Glen Bricken entitled to reimbursement for psychological services rendered on January 28, 2021?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$1,545.00 for psychological services rendered on January 28, 2021.

The respondent denied payment for the disputed services based upon "The payment was reviewed using an existing PPO contracted arrangement."

The respondent did not submit any documentation to support a PPO contracted arrangement exists between the requestor and respondent; therefore, the respondent's denial is not supported.

2. On January 13, 2021, the respondent's representative, EK Health Transforming Managed Care, gave preauthorization approval for psychological evaluation (1.00); CPT 96130 (1.00); CPT 96131 (2.00); CPT 96136 (1.00); and CPT 96137 (2.00).

The respondent did not submit the original basis for denial. The requestor wrote, "Not sure which original decision was maintained." The DWC finds the respondent did not support the denial of reimbursement for the preauthorized services; therefore, reimbursement per the fee guideline is recommended.

The fee guideline for disputed services is found at 28 TAC§134.203.

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."

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 date of service, the requestor billed CPT codes 90791, 96130, 96131, 96136, and 96137. These codes are described as:

- CPT code 90791-" Psychiatric diagnostic evaluation."
- CPT code 96130-" Psychological testing evaluation services by physician or other qualified health care professional, including integration of patient data, interpretation of standardized test results and clinical data, clinical decision making, treatment planning and report, and interactive feedback to the patient, family member(s) or caregiver(s), when performed; first hour."
- CPT code 96131-" Psychological testing evaluation services by physician or other qualified health care professional, including integration of patient data, interpretation of standardized test results and clinical data, clinical decision making, treatment planning and report, and interactive feedback to the patient, family member(s) or caregiver(s), when performed; each additional hour (List separately in addition to code for primary procedure)."

- CPT code 96136-“Psychological or neuropsychological test administration and scoring by physician or other qualified health care professional, two or more tests, any method; first 30 minutes.”
- CPT code 96137-“Psychological or neuropsychological test administration and scoring by physician or other qualified health care professional, two or more tests, any method; each additional 30 minutes (List separately in addition to code for primary procedure).”

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.”

28 TAC §134.203(c)(2) states “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. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007.”

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

- The DWC conversion factor for 2021 is 61.17.
- The Medicare conversion factor for 2021 is 34.8931.
- Review of Box 32 on the CMS-1500 finds that the services were rendered in zip code 77380 which is located in The Woodlands, Texas; therefore, the Medicare locality is “Rest of Texas.”
- The 77380 zip code Per Health Resource & Service Administration, zip code 77380 is designated as a mental health HPSA.
- Per Medicare, “When you deliver services to Medicare patients in a ZIP code eligible for automatic HPSA bonus payment, the HPSA physician automatically gets a bonus payment. CMS updates this list annually and it is effective for services delivered on and after January 1 of each calendar year. If you deliver services to Medicare patients in a geographic HPSA not on the automatic payment ZIP code list, use the AQ modifier, “Physician providing a service in an unlisted Health Professional Shortage Area (HPSA),” on the claim to get the bonus payment.” The requestor did not use the AQ modifier to designate HPSA and that bonus payment is due.
- The carrier code for Texas is 4412 and the locality code for Rest of Texas is 99.

Using the above formula, the DWC finds the MAR for the disputed services as follows:

| Code | No. of Units Preauthorized | Medicare Participating Amount | MAR | Insurance Carrier Paid | Amount Due |
|-------|-------------------------------|-------------------------------------|----------------------------|---------------------------|------------|
| 90791 | 1 | \$176.83 | \$310.00 | \$0.00 | \$310.00 |
| 96130 | 1 | \$117.89 | \$206.67 | 0.00 | \$206.67 |
| 96131 | 2 | \$89.22 | \$156.41 X 2 = \$312.82 | 0.00 | \$312.82 |
| 96136 | 1 | \$45.00 | \$78.89 | 0.00 | \$78.89 |
| 96137 | 2 | \$40.45 | \$70.91 X 2 = \$141.82 | 0.00 | \$141.82 |

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 \$1,050.20 is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that Work First Casualty Co. must remit to Dr. Glenn Bricken \$1,050.20 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

04/19/2022

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.