TDI Division of Workers' Compensation

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Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Baylor Surgicare of Plano

Respondent Name
Sompo America Insurance Co

MFDR Tracking Number
M4-22-0963-01

Carrier's Austin Representative
Box Number 19

DWC Date Received
January 21, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
July 14, 2021	Ambulatory Surgical Care Services (ASC), CPT Code 29888	$0.00	$0.00
	ASC CPT Code 29881	$0.00	$0.00
	ASC HCPCS Code C1762	$6,600.00	$0.00
	ASC HCPCS Code C1713	$2,780.60	$0.00
	Total	$8,840.50	$0.00

Requestor's Position

"At this time we are requesting that this claim paid in accordance with the 2021 Texas Workers Compensation Fee Schedule and Guidelines for Ambulatory Surgical Centers."

Amount in Dispute: $8,840.50

Respondent's Position

"The carrier is reevaluating it's position given the fact that the provider billed for implants. We would ask that the Division allow the parties to informally resolve the medical fee dispute and that once the provider receives additional payment, the provider is in agreement with that payment, that the provider withdraw its request for medical fee dispute resolution."

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 TAC §133.307, sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.402, sets out the fee guidelines for ambulatory surgical care services.

Denial Reasons

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

- 97-Payment adjusted because the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
- 4915-The charge for the services represente…(not legible)
- 193, 90563-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Is Sompo American Insurance Company's denial based on the implants being bundled to other service supported?

Findings

1. The requestor is seeking dispute resolution in the amount of $8,840.50 for the implantables with HCPCS Codes C1762 and C1713.

   The respondent denied reimbursement for HCPCS codes C1762 and C1713 based upon unbundling. The respondent reimbursed CPT codes 29888 and 29881 at rate with implants included in MAR supporting denial.

   The fee guideline for ASC services is found in 28 TAC §134.402.

   28 TAC §134.402 (f)(2)(B) states,

   > 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: (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.

28 TAC §134.402 (g)(1)(A) and (B) states,

A facility, or surgical implant provider with written agreement of the facility, may request separate reimbursement for an implantable. (1) The facility or surgical implant provider requesting reimbursement for the implantable shall:
(A) bill for the implantable on the Medicare-specific billing form for ASCs;
(B) include with the billing a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge," and shall be signed by an authorized representative of the facility or surgical implant provider who has personal knowledge of the cost of the implantable and any rebates or discounts to which the facility or surgical implant provider may be entitled.

28 TAC §133.10 (f)(1)(W) states,

All information submitted on required paper billing forms must be legible and completed in accordance with this section. The parenthetical information following each term in this section refers to the applicable paper medical billing form and the field number corresponding to the medical billing form. (1)The following data content or data elements are required for a complete professional or non-institutional medical bill related to Texas workers' compensation health care: (W) supplemental information (shaded portion of CMS-1500/field 24d - 24h) is required when the provider is requesting separate reimbursement for surgically implanted devices or when additional information is necessary to adjudicate payment for the related service line."

28 TAC §134.402 (g)(1)(B) states,

A facility, or surgical implant provider with written agreement of the facility, may request separate reimbursement for an implantable. (1) The facility or surgical implant provider requesting reimbursement for the implantable shall: (B) include with the billing a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge," and shall be signed by an authorized representative of the facility or surgical implant provider who has personal knowledge of the cost of the implantable and any rebates or discounts to which the facility or surgical implant provider may be entitled.

A review of the submitted medical bill finds the requestor did not indicate on fields 24d-24h a request for separate reimbursement for the implantables. In addition, the implant

cost certification was dated January 14, 2022. The original EOB was not submitted by either party, however, the reconsideration EOB is dated January 5, 2022. This date is prior to the requestor's certification date. The DWC finds the requestor did not support that the implant cost certification was included with the initial billing as required by 28 TAC §134.402 (g)(1)(B). Furthermore, the requestor did not dispute payment for CPT codes 29888 and 29881 at a rate that bundled implantables.

The DWC concludes the requestor did not comply with 28 TAC §134.402 (g)(1)(B) and §133.10 (f)(1)(W) for requesting separate reimbursement for implantables; therefore, the respondent's denial of payment for HCPCS codes C1762 and C1713 is supported.

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 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

		May 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. 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.