



Medical Fee Dispute Resolution Findings and Decision General Information

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Requestor Name

MILLENNIUM CHIROPRACTIC

Respondent Name

AMERICAN ZURICH INSURANCE COMPANY

MFDR Tracking Number

M4-22-1685-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

April 5, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
February 2, 2021 through May 19, 2021	97799-CP-GP, 97110-GP, 97140-59-GP, and G0283-GP	\$6,861.12	\$4,636.44
Total		\$6,861.12	\$4,636.44

Requestor's Position

"...dates of service were pre-authorized by the carrier (see enclosed pre-authorization letters) and were performed and billed in accordance with the ODG and the 1996 Medical Fee Guideline and MUST BE PAID. With the exception of ONE of the above-listed dates of service (02/02/21), the carrier never sent EOBs for ANY of the rest of the above-listed dates... see enclosed pre-authorization letters and were performed and billed in accordance with the ODG and the 1996 Medical Fee Guideline and MUST BE PAID."

Amount in Dispute: \$6,861.12

Respondent's Position

The Austin carrier representative for American Zurich Insurance Company is Flahive Ogden & Latson. Flahive Ogden & Latson was notified of this medical fee dispute on April 12, 2022. 28 TAC §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 28 TAC §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 (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.203 sets out the fee guideline for professional services.
3. 28 TAC §134.600 sets out preauthorization, concurrent utilization review, and voluntary certification of health care.

Denial Reasons

The insurance carrier did not respond to the DWC060 request. The requestor did not submit copies of EOBs with the DWC060 request.

Issues

1. Did the requestor submit a bill with a valid state license number?
2. Did the requestor waive the right to medical fee dispute resolution for dates of service February 2, 2021, February 3, 2021, March 29, 2021, and March 31, 2021?
3. Did the requestor meet the requirements of 28 TAC 133.307 (2)(K)?
4. What are the reimbursement rules for chronic pain management services?
5. Is the requestor entitled to reimbursement for CPT Codes 97110, 97140 and G0283?
6. Is the Requestor entitled to reimbursement?

Findings

1. The requestor seeks reimbursement for medical services rendered on February 2, 2021, February 3, 2021, March 29, 2021, and March 31, 2021.

28 Texas Administrative Code (TAC) §42.20 states, "(a-b) Licensed Doctor of Medicine, osteopathy, chiropractic, and podiatry may act as treating doctors for injured workers entitled to benefits under the Act. (b) Treating doctors may prescribe treatment to be rendered by other persons licensed to provide health care, or by persons not licensed to provide health care who work under the direct supervision and control of the treating."

The DWC issued a cease-and-desist order dated December 21, 2020, which states in part, "It is ordered that Eric A. Vanderwerff, D.C., must immediately cease and desist from the following: Providing health care services in the Texas workers' compensation system, including serving as a treating doctor, until he notifies DWC that the Texas Board of Chiropractic Examiners has allowed him to practice chiropractic medicine."

In addition, the cease-and-desist order states "On October 1, 2020, Dr. Vanderwerff's license expired and remains expired as of December 18, 2020."

The DWC finds that Karen Austin, D.C., rendered the disputed services.

2. The requestor seeks reimbursement for medical services rendered on February 2, 2021, February 3, 2021, March 29, 2021, and March 31, 2021. 28 TAC §133.307(c) (1) states in pertinent part, "Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute."

The dates of the services in dispute are February 2, 2021, February 3, 2021, March 29, 2021, and March 31, 2021. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on April 5, 2022. This date is later than one year after the date of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in 28 TAC §133.307(c) (1) (B). The Division concludes that the requestor has failed to timely file this dispute with the Division's MFDR Section; consequently, the requestor has waived the right to medical fee dispute resolution for dates of service February 2, 2021, February 3, 2021, March 29, 2021, and March 31, 2021.

The DWC finds that dates of service April 5, 2021, April 7, 2021, April 12, 2021, April 14, 2021, April 19, 2021, April 21, 2021, May 12, 2021, May 13, 2021, May 17, 2021, May 18, 2021, and May 19, 2021 were submitted timely and within the one-year filing deadline and are eligible for review.

3. The requestor seeks reimbursement for CPT Code 97799-CP-GP rendered on May 12, 2021 through May 19, 2021 and CPT Codes 97110-GP, 97140-59-GP and G0283-GP rendered on April 5, 2021 through April 21, 2021.

The insurance carrier did not respond to the DWC060 request, and no EOBs were submitted by either party. The DWC finds the following:

Date of Service	CPT Code	Services Rendered by	Amount in dispute
April 5, 2021	G0283-GP 97140-59-GP 97110-GP	Karen Austin, DC	\$332.64
April 7, 2021	G0283-GP 97140-59-GP 97110-GP	Karen Austin, DC	\$332.64
April 12, 2021	G0283-GP 97140-59-GP 97110-GP	Karen Austin, DC	\$332.64
April 14, 2021	G0283-GP 97140-59-GP 97110-GP	Karen Austin, DC	\$332.64

April 19, 2021	G0283-GP 97140-59-GP 97110-GP	Karen Austin, DC	\$332.64
April 21, 2021	G0283-GP 97140-59-GP 97110-GP	Karen Austin, DC	\$332.64
May 12, 2021	97799-CP-GP x 6	Karen Austin, DC	\$600.00
May 13, 2021	97799-CP-GP x 6	Karen Austin, DC	\$600.00
May 17, 2021	97799-CP-GP x 6	Karen Austin, DC	\$600.00
May 18, 2021	97799-CP-GP x 6	Karen Austin, DC	\$600.00
May 19, 2021	97799-CP-GP x 6	Karen Austin, DC	\$600.00

28 TAC §133.307 (2)(K) states, "(2) Health Care Provider or Pharmacy Processing Agent Request. The requestor must send the request to the division in the form and manner prescribed by the division by any mail service, personal delivery, or electronic transmission as described in §102.5 of this title. The request must include... (K) each explanation of benefits or e-remittance (collectively "EOB") related to the dispute as originally submitted to the health care provider in accordance with this chapter or, if no EOB was received, convincing documentation providing evidence of insurance carrier receipt of the request for an EOB..."

Review of the DWC060 included sufficient documentation to support that the requestor attempted to obtain EOBs for the services in dispute. As a result, the disputed services are eligible for MFDR review.

4. The requestor seeks reimbursement for CPT Code 97799-CP rendered on May 12, 2021 through May 19, 2021. 28 TAC §134.600(p)(10) states, "Non-emergency health care requiring preauthorization includes... (10) chronic pain management/interdisciplinary pain rehabilitation..."

The requestor submitted a copy of a preauthorization letter issued by MedInsight's, dated December 3, 2020 to support that preauthorization was obtained for a chronic pain management program, 80 units (97799) start date of December 3, 2020 and end date June 3, 2021.

The chronic pain management services in dispute are dated May 12, 2021 through May 19, 2021. The DWC finds that the services in dispute, were rendered within the preauthorized timeframe. Reimbursement is therefore recommended.

The fee guideline for chronic pain management services is found in 28 TAC §134.230.

28 TAC §134.230(1) states "Accreditation by the CARF is recommended, but not required. (A) If the program is CARF accredited, modifier "CA" shall follow the appropriate program modifier as designated for the specific programs listed below. The hourly reimbursement for a CARF accredited program shall be 100 percent of the maximum allowable reimbursement (MAR). (B) If the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR."

The requestor billed 97799-CP; therefore, the disputed program is not CARF accredited, and reimbursement shall be 80% of the MAR (\$125 x 80% = MAR \$100).

28 TAC §134.230(5) states, "The following shall be applied for billing and reimbursement of Chronic Pain Management/Interdisciplinary Pain Rehabilitation Programs. (A) Program shall be billed and reimbursed using CPT code 97799 with modifier "CP" for each hour. The number of hours shall be indicated in the unit's column on the bill. CARF accredited programs shall add "CA" as a second modifier. (B) Reimbursement shall be \$125 per hour. Units of less than one hour shall be prorated in 15-minute increments. A single 15-minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes."

Date of Service	CPT Code	# Units	\$125 x 80% MAR = \$100	Disputed Amount	Amount Recommended
May 12, 2021	97799-CP	6	\$600.00	\$600.00	\$600.00
May 13, 2021	97799-CP	6	\$600.00	\$600.00	\$600.00
May 17, 2021	97799-CP	6	\$600.00	\$600.00	\$600.00
May 18, 2021	97799-CP	6	\$600.00	\$600.00	\$600.00
May 19, 2021	97799-CP	6	\$600.00	\$600.00	\$600.00
TOTALS		30	\$3,000.00	\$3,000.00	\$3,000.00

The DWC finds that the requestor is entitled to reimbursement in the amount of \$3,000.00 for CPT Code 97799-CP rendered on May 12, 2021 through May 19, 2021.

- 5. The requestor seeks reimbursement for CPT Codes G0283-GP, 97140-59-GP, and 97110-GP rendered on April 5, 2021 through April 21, 2021.

The applicable fee guideline for physical therapy services is found at 28 TAC §134.203.

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 dates of service, the requestor billed CPT Codes G0283-GP, 97140-59-GP, and 97110-GP. The multiple procedure rule discounting applies to the disputed service.

Medicare Claims Processing Manual Chapter 5, 10.7-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>

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..."

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

- The dates of service in dispute were rendered in 2021.
- The DWC conversion factor for 2021 is 61.17
- The Medicare conversion factor for 2021 is 34.8931
- 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 75061 located in Irving, Texas; therefore, the Medicare locality is "Dallas, Texas."
- The Medicare participating amount for CPT Code G0283 at this locality is \$10.02 for each unit.
- The Medicare participating amount for CPT Code 97140-59-GP is \$22.00 for each unit.
- The Medicare participating amount for CPT Code 97110-GP at this locality is \$30.76 for the first unit, and \$23.60 for 3 units

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

- CPT Code G0283 x 1 units
- Using the above formula, the MAR is \$17.57.
- $\$17.57 \times 1 \text{ unit} = \text{MAR } \$17.57.$
- The respondent paid \$0.00.
- The amount recommended is \$17.57.

- CPT Code 97140 x 2 units
- Using the above formula, the MAR is \$38.57.
- $\$38.57 \times 2 \text{ unit} = \77.14
- The respondent paid \$0.00.
- The amount recommended is \$77.14

- CPT Code 97110 X 4 units
- Using the above formula, the MAR is \$53.92 for the first unit, and \$41.37 for the subsequent units.
- $\$53.92 \times 1 \text{ unit} = \text{MAR } \$53.92.$
- $\$41.37 \times 3 \text{ units} = \text{MAR of } \$124.12.$
- $\$53.92 \text{ for the first unit} + \$124.12 \text{ for 3 units} = \text{Total MAR } \178.03
- The respondent paid \$0.00.
- The amount recommended is \$178.03

Date of Service	CPT Code	# Units	MAR	Disputed Amount	Amount Recommended
April 5, 2021	G0283-GP	1	\$17.57	\$24.00	\$17.57
	97140-59-GP	2	\$77.14	\$98.40	\$77.14
	97110-GP	4	\$178.03	\$210.24	\$178.03
April 7, 2021	G0283-GP	1	\$17.57	\$24.00	\$17.57
	97140-59-GP	2	\$77.14	\$98.40	\$77.14
	97110-GP	4	\$178.03	\$210.24	\$178.03
April 12, 2021	G0283-GP	1	\$17.57	\$24.00	\$17.57
	97140-59-GP	2	\$77.14	\$98.40	\$77.14
	97110-GP	4	\$178.03	\$210.24	\$178.03
April 14, 2021	G0283-GP	1	\$17.57	\$24.00	\$17.57
	97140-59-GP	2	\$77.14	\$98.40	\$77.14
	97110-GP	4	\$178.03	\$210.24	\$178.03
April 19, 2021	G0283-GP	1	\$17.57	\$24.00	\$17.57
	97140-59-GP	2	\$77.14	\$98.40	\$77.14
	97110-GP	4	\$178.03	\$210.24	\$178.03
April 21, 2021	G0283-GP	1	\$17.57	\$24.00	\$17.57
	97140-59-GP	2	\$77.14	\$98.40	\$77.14
	97110-GP	4	\$178.03	\$210.24	\$178.03
TOTALS		42	\$1,636.44	\$1,995.84	\$1,636.44

6. The DWC finds that the requestor is therefore entitled to a total reimbursement amount of \$4,636.44.

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 requestor has established that reimbursement of \$4,636.44 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 \$4,636.44 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

July 27, 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.