



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

MATTHEW SULLIVAN MD

**Respondent Name**

STARR INDEMNITY & LIABILITY COMPANY

**MFDR Tracking Number**

M4-22-1745-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

April 13, 2022

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 24, 2021	12032, 11012, 27766 and 27759	\$1,948.34	\$0.00
<b>Total</b>		\$1,948.34	\$0.00

### Requestor's Position

"We have attempted to receive correct reimbursement for a surgery that was performed but have been unsuccessful. Despite the fact that this is not a New York claim, the claimant was treated in New York on the day of the injury because his injuries were severe. New York state Worker's Compensation fee schedule rates are higher than Texas rates and we are looking to be reimbursed at our normal rates."

**Amount in Dispute:** \$1,948.34

### Respondent's Position

"Requestor is an out-of-state provider who claims that they should be paid pursuant to the New York State workers' compensation rate instead pursuant to the Texas workers' compensation fee guidelines because the New York State rates are higher. However, that is incorrect. Requestor chose to accept the Claimant knowing his treatment was covered under Texas workers' compensation. Requestor, by accepting this patient, is bound by the Texas Labor Code and the corresponding rules... Respondent originally issued \$3,059.07 to Requestor and have now issued an additional \$900.37 (see attached EOB) for a total reimbursement of \$3,959.44 pursuant to the Medicare fee guidelines, as required by the Division."

**Response Submitted by:** Downs Stanford, P.C.

## 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 medical services.

### Denial Reasons

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

- 5405 - THIS CHARGE WAS REVIEWED THROUGH THE CLINICAL VALIDATION PROGRAM.
- 5721 - TO AVOID DUPLICATE BILL DENIAL FOR ALL RECONSIDERATIONS/ ADJUSTMENTS/ ADDITIONAL PAYMENT REQUESTS SUBMIT A COPY OF THIS EOR OR CLEAR NOTATION.
- 90121 - CHARGES ARE ADJUSTED BASED ON MULTIPLE SURGERY RULES OR CONCURRENT ANESTHESIA RULES.
- 90137 - PAYMENT ADJUSTED BECAUSE THE BENEFIT FOR THIS SERVICE IS INCLUDED IN THE PAYMENT/ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE THAT HAS ALREADY BEEN ADJUDICATED.
- 90223 - WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
- 5405 - This Charge Was Reviewed Through The Clinical Validation Program.
- 5721 - To avoid duplicate bill denial for all reconsiderations/ adjustments/ additional payment requests submit a copy of this EOR or clear notation that a recon is
- 5969 - CV Processor ready to resolve rules.
- 59 -CHARGES ARE ADJUSTED BASED ON MULTIPLE SURGERY RULES OR CONCURRENT ANESTHESIA RULES.
- 31029 - Per CPT code description, debridement code is only allowed for open fractures or dislocations. Service included in another code billed on the same day.
- 78 - THE ALLOWANCE FOR THIS PROCEDURE WAS ADJUSTED IN ACCORDANCE WITH MULTIPLE SURGICAL PROCEDURE RULES AND/OR GUIDELINES.
- 97 - PAYMENT ADJUSTED BECAUSE THE BENEFIT FOR THIS SERVICE IS INCLUDED IN THE PAYMENT/ALLOWANCE FOR ANOTHER SERVICE/PROCEDURE THAT HAS ALREADY BEEN ADJUDICATED.
- P45 - WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
- 5373 - CV: Documentation does not meet the CPT requirements for modifier -59. The procedure is included in another procedure.
- 4063 - REIMBURSEMENT IS BASED ON THE PHYSICIAN FEE SCHEDULE WHEN A PROFESSIONAL SERVICE WAS PERFORMED IN THE FACILITY SETTING
- 5385 - CV: This charge is not normally billed separately.
- 52 - SERVICE PERFORMED RESULTED IN THE INITIAL DECISION TO PERFORM THE SURGERY.

## Issues

1. Were the services in dispute rendered out of state?
2. Is the Insurance Carrier's denial reason(s) supported?
3. Is the Requestor entitled to reimbursement?

## Findings

1. The requestor is a health care provider that rendered disputed services in the state of New York to an injured employee with an existing Texas Workers' Compensation claim. The health care provider was dissatisfied with the insurance carrier's final action. The health care provider has requested medical fee dispute resolution under 28 TAC §133.307. Because the requestor has sought the administrative remedy outlined in 28 TAC §133.307, the Division concludes that it has jurisdiction to decide the issues in this dispute pursuant to the Texas Workers' Compensation Act and applicable rules.
2. The Requestor seeks additional reimbursement in the amount of \$1,948.34 for CPT Codes 12032, 11012, 27766 and 27759 rendered on May 24, 2021. The insurance carrier issued total a payment in the amount of \$3,059.07 prior to the DWC060 request. The insurance carrier issued a supplemental payment in the amount of \$900.37 for a total reimbursement amount of \$3,959.44.

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."

The DWC completed NCCI edits to identify potential edit conflicts that may affect the reimbursement. The following was identified:

Review of the medical bill finds that the Requestor billed CPT Codes 99221, 27759, 11012, 27766, 12032 and 77071.

The requestor does not seek additional reimbursement for CPT Codes 99221 and 77071. As a result, these codes are not considered for review.

No edit conflicts were identified. As a result, the disputed services are reviewed pursuant to 28 TAC 134.203 (b)(1).

3. 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..."

Review of the Medicare payment policies finds the following:

Multiple Surgery/Procedure (Modifier 51) Indicator: 2

Standard payment adjustment rules for multiple procedures apply. If procedure is reported on the same day as another procedure with an indicator of 1, 2, or 3, rank the procedures by fee schedule amount and apply the appropriate reduction to this code (100 percent, 50 percent, 50 percent, 50 percent, 50 percent, and by report). Base payment on the lower of: (a) the actual charge or (b) the fee schedule amount reduced by the appropriate percentage.

Multiple Surgery/Procedure (Modifier 51) Indicator: 0

No payment adjustment rules for multiple procedures apply. If procedure is reported on the same day as another procedure, base payment on the lower of: (a) the actual charge or (b) the fee schedule amount for the procedure.

CPT Code	Multiple Surgery/ Procedure Indicator	CMS Fee Schedule	MAR	Insurance Carrier Paid	MAR After Reduction
27759	2	\$983.86	\$2,164.36	\$2,620.74	\$2,164.36
27766	2	\$598.53	\$1,316.68	\$786.83	\$658.34
11012	2	\$407.93	\$897.39	\$245.06	\$448.70
12032	2	\$185.06	\$407.11	\$75.95	\$203.55
TOTAL		\$2175.38	\$4,785.54	\$3,728.58	\$3,474.95

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

- The date of service in dispute is May 24, 2021.
- The 2021 DWC Conversion Factor is 61.17
- The 2021 Medicare Conversion Factor is 34.8931
- Per the medical bills, the services were rendered in zip code 13210; therefore, the Medicare locality is "New York."
- The Medicare Participating amount for the CPT Codes in dispute is \$3,474.95.
- The Respondent paid \$3,728.58 for the services in dispute.
- The Requestor is therefore not entitled to additional reimbursement for the services in dispute.

4. The DWC finds that the requestor has established that no additional reimbursement is due.

## 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 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**

_____	_____	<u>May 13, 2022</u>
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](http://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.

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).

If you have questions about DWC Form-045M, please call CompConnection at 1-800-252-7031, option 3 or email [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).

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](mailto:CompConnection@tdi.texas.gov).