TDI Division of Workers' Compensation
PO Box 12050 | Austin, TX 78711 | 800-252-7031 | tdi.texas.gov/wc

# Medical Fee Dispute Resolution Findings and Decision

## General Information

**Requestor Name**
INTEGRITY HEALTH CLINIC

**Respondent Name**
TX ASSOCIATION OF COUNTIES RMP

**MFDR Tracking Number**
M4-22-1820-01

**Carrier's Austin Representative**
Box Number 47

**DWC Date Received**
April 25, 2022

## Summary of Findings

| Dates of Service | Disputed Services | Amount in Dispute | Amount Due |
|---|---|---|---|
| February 24, 2022 | 99204 | $50.00 | $49.92 |
| | **Total** | $50.00 | $49.92 |

## Requestor's Position

According to the labor code and fee guidelines, a fair and reasonable amount was billed. Payments we receive from Sedgwick are below other comparable workers' compensation insurance companies we deal with regularly. We believe the amount billed reflects a reasonable fee for the quality of medical care provided, ensuring injured employees returned to work timely."

**Amount in Dispute:** $50.00

## Respondent's Position

"TAC RMP maintains its position that the bill was properly adjudicated. However, based on prior decisions, TAC RMP has processed an additional payment in the amount of $29.41."

**Response Submitted by:** Burns, Anderson Jury & Brenner, L.L.P.

# 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.
3. Texas Insurance Code (TIC) 1451.104 allows for different reimbursement for medical doctors and physician assistants.

Denial Reasons

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

- 252 – The recommended allowance is based on the value for services performed by a licensed non-physician practitioner.
- 309 – The charge for this procedure exceeds the fee schedule allowance.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.
- N600 - Adjusted based on the applicable fee schedule for the region in which the service was rendered.

Issues

1. What services are in dispute?
2. How are the disputed services reimbursed under the Texas Workers' Compensation system?
3. Is the Requestor entitled to additional reimbursement?

Findings

1. The requestor seeks additional reimbursement for CPT Code 99204 rendered on February 24, 2022. The insurance carrier issued a partial payment and denied the remaining charge with the denial reason codes indicated above.

   CPT code 99204 is described as, "Office or other outpatient visit for the evaluation and management of a new patient, which requires these 3 key components: A comprehensive history; A comprehensive examination; Medical decision making of moderate complexity. Counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Typically, 45 minutes are spent face-to-face with the patient and/or family."

2. The requestor billed $250.00, and the insurance carrier issued a payment in the amount of $200.00, which is 80% of the billed amount. The disputed service was rendered by a physician's assistant (PA). The insurance carrier's reduction of payment is based on Medicare's non-physician reimbursement policies. The DWC will now consider if 80% reimbursement of the billed amount applies to PA's.

   Texas Insurance Code Sec. 1451.104 states in part:

   > (c) Notwithstanding Subsection (a), a health insurance policy may provide for a different amount of payment or reimbursement for scheduled services or procedures performed

by an advanced practice nurse, nurse first assistant, licensed surgical assistant, or physician assistant if the methodology used to compute the amount is the same as the methodology used to compute the amount of payment or reimbursement when the services or procedures are provided by a physician.

This provision allows insurance carriers to reimburse physician assistants at a different amount than physicians.

28 TAC §134.203 Medical Fee Guideline for Professional Services, states:

(a) (5) "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.

(b) 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.

Chapter 12 of the Medicare Claims Processing Manual states, "110 - Physician Assistant (PA) Services Payment Methodology (Rev. 2656, Issuance: 02-07-13, Effective: 02-19-13, Implementation: 02-19-13) See chapter 15, section 190 of the Medicare Benefit Policy Manual, pub. 100-02, for coverage policy for physician assistant (PA) services. Physician assistant services are paid at 80 percent of the lesser of the actual charge or 85 percent of what a physician is paid under the Medicare Physician Fee Schedule."

TIC 1451.104(c) allows the insurance carrier to pay a PA a different amount if the "methodology used to compute the amount is the same as the methodology used to compute the amount of payment or reimbursement when the services or procedures are provided by a physician."

A physician is paid for code 99204 at the Medicare rate plus a DWC multiplier. Reimbursing a PA at 80 percent of the actual charge is not the same methodology used for physician reimbursement and is contrary to TIC 1451.04(c). The DWC finds that the requestor is therefore entitled to 85% of the Medicare Physician Fee Schedule.

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... (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 2022 DWC Conversion Factor is 62.46
- The 2022 Medicare Conversion Factor is 34.6062
- The CMS 1500 indicates the services were rendered in zip code 75703; the Medicare locality is "Rest of Texas."
- The Medicare Participating amount for CPT code 99204 at this locality is $162.91.
- 85% of the CMS Fee Schedule = Medicare Participating amount of $138.47.
- Using the above formula, the DWC finds the MAR is $249.92.
- The respondent paid $200.00 and indicated on the position summary that a supplemental payment of $29.41 was issued, however no documentation was submitted to support that this payment was issued to the requestor.
- Reimbursement of $49.92 is therefore recommended.

3. The DWC finds that the requestor is therefore entitled to an additional payment of $49.92. This amount is recommended.

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 established that additional reimbursement of $49.92 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 $49.92 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

**Authorized Signature**

| | | |
|---|---|---|
| | | July 19, 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.