



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

MILLENNIUM CHIROPRACTIC

Respondent Name

NEW HAMPSHIRE INSURANCE COMPANY

MFDR Tracking Number

M4-22-1988-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

May 10, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 31, 2021 through July 29, 2021	97799-CP-GP and 99215	\$18,395.00	\$13,565.00
Total		\$18,395.00	\$13,565.00

Requestor's Position

"DOS denied by carrier for extent: 05/10/21, 05/17 /21, 05/19/21, 06/29/21, 06/30/21, 07 /14/21, 07/15/21 The services rendered on the above dates of service were pre-authorized by the carrier (see enclosed pre-authorization letter), and were performed and billed in accordance with the ODG and Medical Fee Guideline, and MUST BE PAID... With respect to the carrier's allegation that this is an in-network claim, attached you will find a DWC-032 filled out by Jeremy Lunn. the carrier's own attorney, stipulating in that document that this claim is NOT in a network... With regard to DOS 03/31/21, 06/07/21, 07/07/21, those three dates of service were for examinations. The exam reports DEMONSTRATE the full extent of the examination. Those examinations were medically necessary to demonstrate the need for the Chronic Pain Management program that the claimant was SUBSEQUENTLY APPROVED TO ENTER. WITHOUT AN EXAM OF THAT CALIBER, A CPM PROGRAM CANNOT AND WILL NOT BE APPROVED BY THE CARRIER. THUS, THEY IMPOSE UPON US A STANDARD OF EXAMINATION THAT WE MUST MEET. WHEN WE MEET THAT STANDARD, PROVEN BY THE APPROVAL OF THAT HEALTH CARE, WE ARE SYSTEMATICALLY NOT PAID FOR AN EXAMINATION OF THAT CALIBER."

Amount in Dispute: \$18,395.00

Respondent's Position

"...the medical treatment at issue consists of office visits and a chronic pain management program for the period of March 31, 2021 through July 29, 2021... The bills were all timely reviewed and either paid in full, partially paid per utilization review or denied. True and correct copies of the EOBs for each date of service are collectively being attached hereto as Exhibit 'A.' "

Response Submitted by: The Silvera Firm

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) §133.305 sets out the general Medical Dispute Resolution guidelines.
2. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 TAC §134.203 sets out the fee guideline for professional medical services.
4. 28 TAC §134.230 sets out the reimbursement guidelines for return-to-work rehabilitation programs.
5. 28 TAC §133.240 sets out the guidelines for medical billing processing/audit by insurance carrier.

Denial Reasons

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

- 219 – Based on extent of injury
- B13 – Previously paid. Payment for this claim/service may have been provided in a previous payment.
- ZK10 – Resolution manager denial
- 242 – Services not provided by network/primary care providers
- P6 – Based on entitlement to benefits

Issues

1. Did Eric VanderWerff, D.C., submit a bill with a valid state license number?
2. Did the requestor waive the right to MDR for date of service March 31, 2021?
3. Did the insurance carrier issue payments for the services in dispute?
4. Is the injured employee enrolled in a certified healthcare network?
5. Are dates of service July 14, 2021, July 15, 2021, July 19, 2021, July 28, 2021, and July 29, 2021 eligible for review by Medical Fee Dispute Resolution?
6. What is the MAR for CPT Code 99215 rendered on July 6, 2021 and July 7, 2021?
7. Did the requestor submit copies of EOBs for dates of service June 14, 2021, June 15, 2021, July 19, 2021, July 27, 2021, July 28, 2021, and July 29, 2021?
8. What is the MAR for CPT Code 97799-CP-GP rendered on May 10, 2021 through July 29, 2021?
9. Is the Requestor entitled to reimbursement?

Findings

1. The requestor seeks reimbursement for professional medical services rendered on March 31, 2021 through July 29, 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., and Christopher Blair, D.C., rendered the disputed treatment.

2. The requestor seeks reimbursement for medical services rendered on 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 date of the service in dispute is March 31, 2021. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on May 10, 2022. This date is later than one year after the date(s) 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 date of service March 31, 2021.

The DWC finds that dates of service May 10, 2021 through July 29, 2021 were submitted timely and are therefore eligible for review.

3. The requestor seeks reimbursement for CPT Code 97799-CP-GP and 99215 rendered on May 10, 2021 through July 29, 2021. The insurance carrier states, "The bills were all timely reviewed and either paid in full, partially paid per utilization review or denied. True and correct copies of the EOBs for each date of service are collectively being attached hereto as Exhibit 'A.'"

The following table outlines the insurance carrier's pay history for the disputed services. The insurance carrier indicates on some of the EOBs that payments totaling \$4,130.00 were issued the "Pay History" spreadsheet does not indicate a check number and indicates status as "Pending."

The insurance carrier's spreadsheet reflects the following:

DOS	CPT CODE	PAYMENT DATE (S)	STATUS	AMOUNT PAID	CHECK #
5/10/21	97799-CP	6/2/21& 6/2/21	Pending	\$0.00	None
5/17/21	97799-CP	6/22/22	PAID	\$100.00	0445325784
5/18/21	97799-CP	6/22/22	PAID	\$100.00	0445325783
5/19/21	97799-CP	6/22/22	PAID	\$100.00	0445325782
5/26/21	97799-CP	6/22/22	PAID	\$100.00	0445325781
5/27/21	97799-CP	6/22/22	PAID	\$100.00	0445325780
6/3/21	97799-CP	6/22/22	PAID	\$100.00	0445325779
6/7/21	99215	6/22/22	PAID	\$265.00	0445325774
6/14/21	97799-CP	7/7/21& 11/9/21	Pending	\$0.00	None
6/15/21	97799-CP	6/22/22	PAID	\$100.00	0445325802
6/16/21	97799-CP	6/22/22	PAID	\$100.00	0445325777
6/22/21	97799-CP	6/22/22	PAID	\$100.00	0445325776
6/23/21	97799-CP	6/22/22	PAID	\$100.00	0445325803
6/24/21	97799-CP	6/22/22	PAID	\$100.00	0445325775
6/29/21	97799-CP	6/22/22	PAID	\$800.00	0445325786
6/30/21	97799-CP	6/22/22	PAID	\$800.00	0445325785
7/1/21	97799-CP	6/22/22	PAID	\$800.00	0445325804
7/7/21	97799-CP	8/2/21	Pending	\$0.00	None
7/7/21	99215	8/2/21 & 11/9/21	Pending	\$0.00	None
7/14/21	97799-CP	8/2/21	Pending	\$0.00	None
7/15/21	97799-CP	8/2/21	Pending	\$0.00	None
7/19/21	97799-CP	8/13/21	Pending	\$0.00	None
7/27/21	97799-CP	8/12/21	Pending	\$0.00	None
7/28/21	97799-CP	8/13/21	Pending	\$0.00	None
7/29/21	97799-CP	8/13/21	Pending	\$0.00	None
Totals				\$3,765.00	

The DWC finds that the respondent submitted sufficient documentation to support the payments totaling \$3,765.00 were issued to the requestor. However, the DWC finds that the respondent submitted insufficient documentation to support those payments were issued for all of the disputed services, as a result, those services are reviewed pursuant to the applicable rules and guidelines.

4. The insurance carrier denied the disputed services with denial reason code, "242 – Services not provided by network/primary care provider."

Review of the DWC-32 submitted by the insurance carrier and requested by the insurance carrier January 16, 2019 indicates in section II, Insurance Carrier Information, box 22 question; Does the claim involve medical benefits provided through a Certified Workers' Compensation Health Care Network? The answer checked "NO."

Review of the insurance carrier's position summary does not raise the certified healthcare network issues, as a result, the insurance carrier's denial reason is not supported, and the disputed services are reviewed pursuant to the applicable rules and guidelines.

5. The requestor seeks reimbursement for dates of service June 29, 2021, July 14, 2021, and July 15, 2021. The insurance carrier denied the disputed service with denial reduction code, "219-Based on extent of injury" and "P6-Based on entitlement to benefits."

The serviced in dispute were denied by the workers' compensation carrier due to an unresolved extent of injury dispute. The extent of injury denial was timely presented to the requestor in the manner required by 28 TAC §133.240.

Documentation provided included a Contested Case Hearing (CCH) Decision, that identified the accepted injury and the conditions that were excluded.

Whether the health care provider treated the conditions accepted under that CCH Decision, or whether the health care provider treated conditions that were excluded under that CCH Decision is not a question that can be addressed through the MFD resolution process. Specifically, 28 TAC §133.305 (b) states that an extent-of-injury dispute shall be resolved prior to the submission of a MFD.

Because the services in dispute contain an unresolved extent of injury issue, this matter is not ripe for adjudication of a medical fee under 28 TAC §133.307.

The DWC concludes that an unresolved extent of injury issue exists for dates of service June 29, 2021, July 14, 2021, and July 15, 2021. The MFD resolution department is not the proper venue for resolution of an extent-of-injury issue.

The requestor is hereby notified that the correct venue for resolution of an extent-of-injury issue is found at Texas Labor Code Chapter 410 and corresponding 28 TAC §141.1.

6. Rule 28 TAC §134.203 applies to CPT Code 99215 rendered on June 7, 2021 and July 7, 2021.

Per 28 TAC §134.203 "(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."

Per 28 TAC §134.203 "(h) When there is no negotiated or contracted amount that complies with Labor Code §413.011, reimbursement shall be the least of the: (1) MAR amount; (2) health care provider's usual and customary charge, unless directed by Division rule to bill a specific amount; or (3) fair and reasonable amount consistent with the standards of 28 TAC §134.1 of this title."

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

- The disputed services were rendered on June 7, 2021 and July 7, 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 75061; therefore, the Medicare locality is "Dallas Texas."
 - The Medicare Participating amount for CPT code 99215 at this locality is \$184.14.
 - Using the above formula, the DWC finds the MAR is \$322.81.
 - The insurance carrier paid \$265.00.
 - The requestor seeks \$265.00 x 2, applicable 28 TAC §134.203(h) states that the total reimbursement is the lesser of the MAR amount and the billed amount, the requestor is entitled to \$265.00.
7. The requestor seeks reimbursement for dates of service June 14, 2021, July 19, 2021, July 27, 2021, July 28, 2021, and July 29, 2021. Neither the requestor nor the respondent submitted EOBs with the DWC060 request/response.

It is the duty of the workers' compensation insurance carrier **or an agent acting on the insurance carrier's behalf** to pay, reduce, or deny a complete medical bill within 45 days from receiving the bill. The 45-day deadline to make or deny payment is not extended as a result of an audit under 28 TAC §133.230 or as a result of a pending request for additional documentation.

Further, the insurance carrier **must** notify the health care provider of its final action by issuing an explanation of benefits (EOB) and must include on its EOB any bill reductions, denial reasons, and defenses in the form and manner required under 28 TAC §133.240.

As a result, the DWC finds that the disputed services are reviewed pursuant to the applicable rules and guidelines.

8. Under 28 TAC §133.307, DWC only reviews those denial reasons and defenses presented by the insurance carrier to the health care provider before the date the request for MFDR was filed. Any denial reasons or defenses the insurance carrier raises after the filing of the dispute are not considered in the review of the medical fee dispute. The fee guideline for chronic pain management services rendered on May 10, 2021 through July 29, 2021 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.

DOS	CPT CODE	# UNITS	AMT SOUGHT	AMT PAID BY IC	MAR \$100/UNIT	AMOUNT DUE
5/10/21	97799-CP	8	\$800.00	\$0.00	\$800.00	\$800.00
5/17/21	97799-CP	8	\$800.00	\$100.00	\$800.00	\$700.00
5/18/21	97799-CP	8	\$800.00	\$100.00	\$800.00	\$700.00
5/19/21	97799-CP	8	\$800.00	\$100.00	\$800.00	\$700.00
5/26/21	97799-CP	8	\$800.00	\$100.00	\$800.00	\$700.00
5/27/21	97799-CP	8	\$800.00	\$100.00	\$800.00	\$700.00
6/3/21	97799-CP	8	\$800.00	\$100.00	\$800.00	\$700.00
6/14/21	97799-CP	8	\$800.00	\$0.00	\$800.00	\$800.00
6/15/21	97799-CP	8	\$800.00	\$100.00	\$800.00	\$700.00
6/16/21	97799-CP	8	\$800.00	\$100.00	\$800.00	\$700.00
6/22/21	97799-CP	8	\$800.00	\$100.00	\$800.00	\$700.00
6/23/21	97799-CP	8	\$800.00	\$100.00	\$800.00	\$700.00
6/24/21	97799-CP	8	\$800.00	\$100.00	\$800.00	\$700.00
6/30/21	97799-CP	8	\$800.00	\$800.00	\$800.00	\$0.00
7/1/21	97799-CP	8	\$800.00	\$800.00	\$800.00	\$0.00
7/7/21	97799-CP	8	\$800.00	\$0.00	\$800.00	\$800.00
7/19/21	97799-CP	4	\$400.00	\$0.00	\$800.00	\$800.00
7/27/21	97799-CP	8	\$800.00	\$0.00	\$800.00	\$800.00
7/28/21	97799-CP	8	\$800.00	\$0.00	\$800.00	\$800.00
7/29/21	97799-CP	8	\$800.00	\$0.00	\$800.00	\$800.00
Totals		156	\$15,600.00	\$2,700.00	\$16,000.00	\$13,300.00

9. The DWC finds that the requestor has established that a total reimbursement in the amount of \$13,565.00 is due. As a result, 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 reimbursement of \$13,565.00 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 \$13,565.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

_____	_____	<u>August 30, 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. 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.