



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

NUEVA VIDA BEHAVIORAL HEALTH

Respondent Name

FEDERATED MUTUAL INSURANCE COMPANY

MFDR Tracking Number

M4-22-2787-01

Carrier's Austin Representative

Box Number 01

DWC Date Received

August 30, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 28, 2021	96158 x 1 unit and 96159 x 2 units	\$215.00	\$193.40
Total		\$215.00	\$193.40

Requestor's Position

"According to Texas Medical Fee Guidelines, the CPT code 96158/96159 considers psychological interventions as necessary to address non-compliance with the treatment plan, and/or the psychological, behavioral, emotional, cognitive, or social factors associated with a newly diagnosed medical condition or an exacerbation of an established medical condition when such factors affect symptom management and expression and health promoting behaviors. Further, the Health and Behavior Intervention (96158/96159) is described as an individual session that does not require pre-authorization."

Amount in Dispute: \$215.00

Respondent's Position

"The services provided include psychological services... Requestor did not seek preauthorization for the services provided, and they were denied on that basis... In addition, there is an unresolved extent of injury dispute... Although the services were not denied on the basis that they were unrelated to the compensable injury, without waiving its position with regard to the lack of preauthorization..."

Response Submitted by: Parker & Associates, L.L.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 §134.600 sets out the guidelines for preauthorization, concurrent review, and voluntary certification of healthcare.
3. 28 TAC §134.240 sets out the medical payments and denials.
4. 28 TAC §134.203 sets out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.

Denial Reasons

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

- 230 - TREATMENT NOT AUTHORIZED.
- 350 - BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
- W3 - IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
- Note: Per the adjuster' review of the reconsideration received, charges remain denied as psych treatment was not authorized for the work injury... Provider may take this matter to Medical Fee Dispute Resolution for further disposition. Per AMY K.: Please contact the adjuster with any questions or concerns regarding this matter, 81 7-685-2365.

Issues

1. Did the insurance carrier raise new issues or defenses prior to the filing of the MDR?
2. What is the definition of CPT Codes 96158 and 96159?
3. Is the requestor entitled to reimbursement?

Findings

1. The requestor seeks reimbursement for CPT Codes 96158 and 96159 rendered on October 28, 2021. The insurance carrier states in pertinent part, "...there is an unresolved extent of injury dispute... Although the services were not denied on the basis that they were unrelated to the compensable injury, without waiving its position with regard to lack of preauthorization..."

Review of the insurance carrier's response finds new denial reasons or defenses raised that were not presented to the requestor before the filing of the request for medical fee dispute resolution.

Rule §133.307(d)(2)(B) requires that upon receipt of the request for medical fee dispute resolution, the respondent shall provide any missing information not provided by the requestor and known to the respondent, including: a paper copy of all initial and appeal EOBs related to the dispute, as originally submitted to the health care provider... related to the health care in dispute not submitted by the requestor or a statement certifying that the respondent did not receive the health care provider's disputed billing prior to the dispute request.

Review of the submitted information finds no documentation to support any EOBs were presented to the health care provider giving notice of the new denial reasons or defenses raised in the insurance carrier's response to MFDR.

Rule §133.307(d)(2)(F) requires that:

The response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review.

Pursuant to Rule §133.307(d)(2)(F), the insurance carrier's failure to give notice to the health care provider of specific codes or explanations for reduction or denial of payment as required by 28 TAC §133.240 constitutes grounds for the division to find a waiver of defenses during Medical Fee Dispute Resolution.

Upon review of the insurance carrier response, the division finds the respondent has raised new denial reasons or defenses of which the carrier failed to give notice to the health care provider during the bill review process or before the filing of this dispute. Consequently, the division concludes the insurance carrier has waived the right to raise such new denial reasons or defenses during dispute resolution. Any such new defenses or denial reasons will not be considered in this review.

2. The requestor billed CPT Codes 96158 and 96159 rendered on October 28, 2021. The insurance carrier denied/reduced the disputed service with reduction codes indicated above.

28 TAC §134.203 (b) states in pertinent part, "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."

- CPT Code 96158 is defined as "Health behavior intervention, individual, face-to-face; initial 30 minutes."
- CPT Code 96159 is defined as "Health behavior intervention, individual, face-to-face; each additional 15 minutes."

The disputed services are considered health and behavior assessment and intervention services.

28 TAC §134.600 (c) (1) (B) states in pertinent part, "(c) The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur... (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care..." 28 TAC §134.600 (p) (7) states in pertinent part "(p) Non-emergency health care requiring preauthorization includes: (7) all psychological testing and psychotherapy, repeat interviews, and biofeedback, except when any service is part of a preauthorized return-to-work rehabilitation program..."

The DWC finds that CPT Codes 96158 and 96159 do not require preauthorization per 28 TAC §134.600 (p)(7). As a result, reimbursement is determined per 28 TAC §134.203.

3. 28 TAC §134.203 (c) states in pertinent part, "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 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 78224; therefore, the Medicare locality is "Rest of Texas."

The Medicare Participating amount for CPT code 96158 at this locality is \$65.28.

- Using the above formula, the DWC finds the MAR is \$114.44.
- The respondent paid \$0.00.

The Medicare Participating amount for CPT code 96159 at this locality is \$22.52.

- Using the above formula, the DWC finds the MAR is $\$39.48 \times 2 = \78.96 .
- The respondent paid \$0.00.

The DWC finds that the requestor is therefore entitled to a total recommended amount of \$193.40 for CPT Codes 96158 and 96159.

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 \$193.40 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 \$193.40 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		November 8, 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.