



## Medical Fee Dispute Resolution Findings and Decision General Information

**Requestor Name**

NUEVA VIDA BEHAVIORAL HEALTH

**Respondent Name**

TEXAS MUTUAL INSURANCE COMPANY

**MFDR Tracking Number**

M4-23-0151-01

**Carrier's Austin Representative**

Box Number 54

**DWC Date Received**

September 19, 2022

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 16, 2022 and March 23, 2022	96158 and 96159	\$430.00	\$397.54
<b>Total</b>		\$430.00	\$397.54

### 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:** \$430.00

### Respondent's Position

"Texas Mutual denied codes 96158 and 96159 as it appears the health care provider is providing psychotherapy services instead of a health and behavioral intervention. The documentation they submitted with their bill and appeal is the same as the documentation they have been submitting with their psychotherapy services. You will find both sets of documentation attached to this response."

**Response Submitted by:** Texas Mutual Insurance Company

## 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 §134.203 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:

- CAC-P12 - WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
- CAC-W3 - IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
- CAC-197 - PRECERTIFICATION/AUTHORIZATION/NOTIFICATION ABSENT.
- CAC-193 - ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.
- 350 - BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
- 714 – ACCURATE LICENSE, CPT/HCPCS, NDC#, DATES UNITS, DAYS SUPPLY, MODIFIERS ARE REQUIRED. SUBMIT CORRECTION W/I 95 DAYS FROM DOS.
- 891 – NO ADDITIONAL PAYMENT AFTER RECONSIDERATION.
- 930 – PRE-AUTHORIZATION REQUIRED; REIMBURSEMENT DENIED.

### Issues

1. Did the Respondent raise a new issue after the submission of the Medical Fee Dispute Request?
2. What is the definition of CPT Codes 96158 and 96159?
3. Is the insurance carrier's denial reason supported?
4. Is the requestor entitled to reimbursement?

### Findings

1. 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.

The insurance carrier states, "Texas Mutual denied codes 96158 and 96159 as it appears the health care provider is providing psychotherapy services instead of a health and behavioral intervention. The documentation they submitted with their bill and appeal is the same as the documentation they have been submitting with their psychotherapy services."

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 insufficient documentation to support an EOB was presented to the health care provider giving notice of the denial reason 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 Rule §133.240, the DWC finds the respondent has raised new denial reasons or defenses. The carrier failed to give notice to the health care provider during the medical bill review process or before the filing of this dispute. Consequently, the division concludes the insurance carrier has waived the right to raise a new denial reason or defense during dispute resolution. Any such new defenses or denial reasons will not be considered in this review.

2. The requestor seeks reimbursement for CPT Codes 96158 and 96159 rendered on March 16, 2022 and March 23, 2022. The insurance carrier denied the disputed services due to lack of preauthorization.

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 services were rendered in 2022.

- The 2022 DWC Conversion Factor is 62.46
- The 2022 Medicare Conversion Factor is 34.6062
- Per the medical bills, the services were rendered in zip code 78230; therefore, the Medicare locality is "Rest of Texas."

The Medicare Participating amount for CPT code 96158 at this locality is \$65.47.

- Using the above formula, the DWC finds the MAR is  $\$118.17 \times 2 = \text{MAR } \$236.33$ .
- The respondent paid \$0.00.
- Reimbursement of \$236.33 is recommended.

The Medicare Participating amount for CPT code 96159 at this locality is \$22.33.

- Using the above formula, the DWC finds the MAR is  $\$40.30 \times 4 \text{ units} = \$161.21$ .
- The respondent paid \$0.00.
- Reimbursement of \$161.21 is recommended.

The DWC finds that the requestor is therefore entitled to reimbursement in the amount of \$397.54.

### 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 \$397.54 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 \$397.54 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

### Authorized Signature

_____	_____	December 12, 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](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. 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).

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).