



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Ferguson Ashley

Respondent Name

Employers Insurance Co of Wausau

MFDR Tracking Number

M4-23-0411-01

Carrier's Austin Representative

Box Number 01

DWC Date Received

October 14, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
February 23, 2022	99213	\$27.00	\$27.00
March 23, 2022	99213	\$27.00	\$27.00
Total		\$54.00	\$54.00

Requestor's Position

"The reimbursement should be \$159.57. Since the provider billed an amount less than the Texas Worker's Comp Fee schedule, the carrier is required to pay the full amount of the billed charges of \$135.00.

Amount in Dispute: \$54.00

Respondent's Position

"We have again reviewed payment for the services of February 23, 2022, and March 23, 2022, by Ashley Ferguson, NP and determined that reimbursement was issued according to the guidelines provided by the Texas Medical Fee Schedule. No additional payment is due as paid correctly for a Licensed Non-Physician Practitioner."

Response submitted by: Liberty Mutual

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 TAC §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.203 sets out the reimbursement guidelines 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 disputed service(s) with the following claim adjustment codes.

- 252 - The recommended allowance is based on the value for services performed by a licensed non-physician practitioner
- 876 – Fee schedule amount is equal to the charge
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly

Issues

1. What rule is applicable to reimbursement?
2. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor is seeking additional reimbursement of professional medical services rendered in February and March of 2022. The insurance carrier reduced the allowed amount based on services performed by non-physician practitioner.

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 1451.04(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 99213 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 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 DWC Conversion Factor divided by the Medicare Conversion Factor is 1.80
- Per the medical bill, the services were rendered in San Marcos, TX; therefore, the

Medicare locality is "Rest of Texas."

- The Medicare Participating amount for CPT code(s) 99213 at this locality is \$88.65.
- 85% of the CMS Fee Schedule = Medicare Participating amount of \$75.35.
- Using the above formula, the DWC finds the MAR is $\$75.35 \times 1.8 = \136.00
- The respondent paid \$108.00.
- A balance of \$28.00 remains for each date of service.

2. The requestor is seeking additional reimbursement in the amount of \$27.00 each for dates of service February 23, 2022, and March 23, 2022, for a total of \$54.00. 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.

DWC finds the requester has established that additional reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that respondent must remit to requestor \$54.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.13

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

November 15, 2022

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.