

## Medical Fee Dispute Resolution Findings and Decision General Information

**Requestor Name**  
MARCUS HAYES DC

**Respondent Name**  
PRAETORIAN INSURANCE COMPANY

**MFDR Tracking Number**  
M4-23-0904-01

**Carrier's Austin Representative**  
Box Number 19

**DWC Date Received**  
December 20, 2022

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 6, 2022	97750-FCE x 9 units	\$585.00	\$0.00
<b>Total</b>		\$585.00	\$0.00

### Requestor's Position

"As stated in my request for reconsideration, the 09/28/2022 PLN-11 states 'Carrier accepts the extent of injury and compensable injury... including the diagnoses...' If you refer to the claim for submitted, the diagnoses... were billed. Additionally, the 10/06/2022 FCE were only performed on these regions. Therefore, the 'extent of injury' denial is not applicable. Additionally, the 09/28/2022 clearly indicates that IC has accepted this claim and injuries sustained and therefore, '90213', 'P2' and '5967' are not applicable."

**Amount in Dispute:** \$585.00

### Requestor's Supplemental Position

"Attached you will find payment from the carrier in the amount of \$433.40 with regard to the MFDR number listed above... However, none of the above explains why the correct reimbursement of \$566.28 was reduced. In this region, the MAR for CPT code 97750 is \$62.92 per unit. Therefore, correct reimbursement for 10/06/2022 is: 9 units x \$62.92=\$566.28."

### Respondent's Position

"Carrier has reviewed the MDR and paid the bill according to the fee guidelines & recommended payment (see attached payment). We are requesting the dispute be withdrawn."

**Response Submitted by:** Gallagher Bassett

## 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 §134.225, effective July 7, 2016, sets the reimbursement guidelines for FCEs.

### Denial Reasons

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

- 90213 & P12 – Not a work related injury/illness and thus not the liability of the workers compensation carrier.
- 5967 – Billed charges are being denied in accordance with TX 133.240 (C)(H)(3).
- 219 – Based on extent of injury.

### Issues

1. Did the insurance carrier issue a payment for the FCE rendered on October 6, 2022 in accordance with 28 TAC §134.225?
2. What rules apply to billing and reimbursement of FCE's?
3. Is the requestor entitled to additional reimbursement?

### Findings

1. The requestor seeks additional reimbursement for CPT Code 97750-FC rendered on October 6, 2022.

The insurance carrier issued a payment in the amount of \$433.40 on January 4, 2023 under check #0184812321, the requestor seeks reimbursement for the remaining balance of \$151.60.

The DWC will determine if the requestor is entitled to additional reimbursement for the disputed service.

2. CPT Code 97750-FC is defined as a functional capacity evaluation. The applicable fee guideline for FCEs is found at 28 TAC §134.225.

28 TAC §134.225 states, "The following applies to functional capacity evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c)(1) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a division ordered test; a maximum of two hours for an interim test; and a maximum of three hours for the discharge test unless it is the initial test. Documentation is required. "

3. 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. 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..."

On the disputed dates of service, the requestor billed CPT code 97550-FC (x 9 units). The multiple procedure rule discounting applies to the disputed service.

Medicare Claims Processing Manual Chapter 5, 10.7-effective June 6, 2016, titled Multiple Procedure Payment Reductions for Outpatient Rehabilitation Services, states:

Full payment is made for the unit or procedure with the highest PE payment. For subsequent units and procedures with dates of service prior to April 1, 2013, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment is made for the PE for services submitted on professional claims (any claim submitted using the ASC X12 837 professional claim format or the CMS-1500 paper claim form) and 75 percent payment is made for the PE for services submitted on institutional claims (ASC X12 837 institutional claim format or Form CMS-1450).

For subsequent units and procedures with dates of service on or after April 1, 2013, furnished to the same patient on the same day, full payment is made for work and malpractice and 50 percent payment is made for the PE for services submitted on either professional or institutional claims.

To determine which services will receive the MPPR, contractors shall rank services according to the applicable PE relative value units (RVU) and price the service with the highest PE RVU at 100% and apply the appropriate MPPR to the remaining services. When the highest PE RVU applies to more than one of the identified services, contractors shall additionally sort and rank these services according to highest total fee schedule amount, and price the service with the highest total fee schedule amount at 100% and apply the appropriate MPPR to the remaining services.

The MPPR Rate File that contains the payments for 2022 services is found at <https://www.cms.gov/Medicare/Billing/TherapyServices/index.html>.

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

- MPPR rates are published by carrier and locality.
- The disputed date of service is October 6, 2022.
- The 2022 DWC Conversion Factor is 62.46
- The 2022 Medicare Conversion Factor is 34.6062
- The service was rendered in zip code 77581, which fall under "Brazoria" locality.
- The Medicare participating amount for CPT code 97750 at this locality is \$34.86 for the

first unit, and \$25.66 for subsequent units.

- Using the above formula, the DWC finds the MAR is \$62.92 for the first unit and \$46.31 for subsequent units for a total MAR of \$433.43.
- The respondent paid \$433.40.
- Reimbursement of \$0.00 is recommended.

4. The DWC finds that the requestor has not established that additional reimbursement is due. As a result, \$0.00 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 not established that additional reimbursement is due. As a result, \$0.00 is recommended.

### **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is not entitled to reimbursement for the disputed services.

### **Authorized Signature**

_____	_____	<u>April 18, 2023</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](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).

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](mailto:CompConnection@tdi.texas.gov).