TDI Division of Workers' Compensation
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Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Integrity Health Clinic

Respondent Name
Zurich American Insurance Co.

MFDR Tracking Number
M4-23-1025-01

Carrier's Austin Representative
Box Number 19

DWC Date Received
January 3, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 18, 2022	Evaluation and Management 99204	$45.94	$45.92

Requestor's Position

To determine the MAR for this claim we used the following formula: (DWC Conversion Factor/Medicare Conversion Factor x Medicare Payment = Maximum Allowable Reimbursement (MAR). We then took the MAR x 85% (per CMS guidelines for mid-level providers).

Amount in Dispute: $45.94

Respondent's Position

The carrier has reconsidered its position. It has reprocessed the provider's bill and iss issuing an additional payment of $45.92.

Response Submitted by: Flahive, Ogden & Latson

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 §134.203 sets out the fee guidelines for professional medical services.

3. Texas Insurance Code (TIC), Sec. 1451.104 sets out the exception to nondiscriminatory payment.

Denial Reasons

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

- 252 – The recommended allowance is based on the value for services performed by a licensed non-physician practitioner.
- 309 – The charge for this procedure exceeds the fee schedule allowance.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.
- N600 – Adjusted based on the applicable fee schedule for the region in which the service was rendered.
- 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
- 2005 – No additional reimbursement allowed after review of appeal/reconsideration.
- 947 – Upheld. No additional allowance has been recommended.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- MA46 Alert – The new information was considered but additional payment will not be issued.

Issues

1. Is Integrity Health Clinic entitled to additional reimbursement?

Findings

1. Integrity Health Clinic is seeking additional reimbursement for procedure code 99204 rendered by a physician assistant.

TIC 1451.104 (c) states:

> 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 rate than physicians.

28 TAC §134.203 states:

> (a) Applicability of this rule is as follows: … (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.

Medicare Claims Processing Manual 100-04, Chapter 12, Section 110 states:

> 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 1451.104 (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."

For procedure code 99204 a physician is paid 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 to TIC 1451.04 (c). DWC finds that the requestor is therefore entitled to 85% of the Medicare Physician Fee Schedule.

28 TAC §134.203 states:

> (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 … 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 for the examination in question, the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) x Medicare Payment = MAR.

- The 2022 DWC Conversion Factor is $62.46.
- The 2022 Medicare Conversion Factor is $34.6062.
- The medical bill indicates that the services were rendered in Tyler, TX. Therefore, the Medicare locality is "Rest of Texas."
- The Medicare Participating amount for CPT code 99204 at this locality is $162.91.
- 85% of the Medicare Participating amount is $138.47.

Using the above formula, DWC finds the MAR is $249.92. Per explanation of benefits dated December 20, 2022, the insurance carrier paid $204.00. In its position statement, the insurance carrier stated it was "issuing an additional payment of $45.92." No evidence was submitted to support that this amount was paid. Therefore, DWC recommends an additional reimbursement of $45.92.

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 of $45.92 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 American Zurich Insurance Co. must remit to Integrity Health Clinic $45.92 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		April 20, 2023
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.