TDI Division of Workers' Compensation
PO Box 12050 | Austin, TX 78711 | 800-252-7031 | tdi.texas.gov/wc

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Simon J. Forster, D.C.

Respondent Name
Insurance Co. of the State of PA

MFDR Tracking Number
M4-23-1139-01

Carrier's Austin Representative
Box Number 19

DWC Date Received
January 18, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 20, 2022	Functional Capacity Evaluation 97750-FC	$1,179.84	$0.00

Requestor's Position

I ordered / performed a functional capacity evaluation assessment as I determined this test was necessary to adequately answer the questions asked by the commission. It was performed according to the specific requirements outlined in RULE §134.225 and billed according to §134.203(c)(1) by utilizing DWC proprietary code "97750-FC" (not '97750') ... Functional capacity evaluation (FCE) is a common test assessment ordered by designated doctors in order to adequately answer return to work questions (as in this particular case).

Amount in Dispute: $1,179.84

Respondent's Position

The provider billed for six services. Those included and MMI evaluation in which he opined that the claimant had not reached MMI, extent of injury, direct result of disability and ability to return to work and multiple certifications. He was not appointed to engage in a functional capacity evaluation. He should not be reimbursed for it.

The provider's undated to whom it may concern request for reconsideration references Division rules 134.202 and 134.204, both of which were repealed in 2016. While the provider has included a narrative report based upon his exam, his DWC-60 packet does not include a DWC-69 nor a DWC-68 nor a DWC-73 nor a report on the basis of an FCE. The provider is not entitled to any additional reimbursement.

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 §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. 28 TAC §134.225 sets out the guidelines for functional capacity evaluations.

4. 28 TAC §134.235 sets out the fee guidelines for examinations to determine extent of injury, return to work, and disability.

Denial Reasons

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

- 00663 – Reimbursement has been calculated according to state fee schedule guidelines
- 90409 – Benefit maximum for this time period or occurrence has been reached.
- 119 – Benefit maximum for this time period or occurrence has been reached.
- 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated
- P12 – Workers' compensation jurisdictional fee schedule adjustment.
- 163 – Claim/service adjusted because the attachement referenced on the claim was not received.
- 309 – The charge for this procedure exceeds the fee schedule allowance.
- 90573 – Mutually exclusive procedures cannot be done in the same day/setting.
- 231 – Mutually exclusive procedures cannot be done in the same day/setting.
- 6197 – In accordance with clinical based coding edits (National Correct Coding Initiative/Outpatient Code Editor), component code of comprehensive medicine, evaluation and management service procedure (90000-99999) has been disallowed.

Issues

1. Is Insurance Co. of the State of PA's denial of payment supported?

Findings

1. Dr. Forster is seeking reimbursement for a functional capacity evaluation performed in conjunction with a designated doctor examination to answer questions about extent of injury, return to work, and disability.

   State fee guidelines in 28 TAC §134.225 provide the requirements for a functional capacity evaluation when billed as a division-specific service with CPT code 97750-FC. Review of the submitted documentation finds that the examination did not include hand function tests or submaximal cardiovascular endurance tests as required by 28 TAC §134.225 (3)(B) and (C).

   The division finds that insurance carrier's denial of payment is supported. No reimbursement 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 not established that additional reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to $0.00 reimbursement for the disputed services.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	March 24, 2023 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.