



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Gulf Coast Functional Testing

Respondent Name

XL Specialty Insurance Co.

MFDR Tracking Number

M4-23-1185-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

January 24, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
September 13, 2022	Functional Capacity Evaluation 97750-FC-GP	\$300.00	\$0.00

Requestor's Position

The treating doctor recommended the services. He had 3 FCE's dates of service are: 7/12/21, 6/10/22 an 9/13/2022. We feel that our facility should be paid according to the workers compensation fee guidelines.

Amount in Dispute: \$300.00

Respondent's Position

The service in question is a functional capacity evaluation (FCE). This is at least the fourth FCE for which the care has been billed. Three prior ones were done on July 17, 2020, August 18, 2020 and July 21, 2021 ... Pursuant to Division Rule 134.225, a maximum of three FCE's for each compensable injury shall be billed and reimbursed. There is an exception if the FCE is ordered by DWC. However, none of the FCEs were ordered by DWC.

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 §134.225 sets out the fee guidelines for functional capacity evaluations.

Denial Reasons

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

- 90223 (P12) – Workers' compensation jurisdictional fee schedule adjustment.
- 296 – Service exceeds maximum reimbursement guidelines.

Issues

1. Is XL Specialty Insurance Co.'s denial of the evaluation in question supported?

Findings

1. Gulf Coast Functional Testing is seeking reimbursement for a functional capacity evaluation billed with procedure code 97750-FC-GP. Functional capacity evaluations (FCE) billed with division-specific modifier "FC" are limited to three evaluations per compensable injury. Per 28 TAC §134.225, FCEs ordered by the division shall not count toward the three FCEs allowed for each compensable injury.

Documentation submitted to the division supports that the injured employee had three prior FCEs for the applicable compensable injury with dates of service July 17, 2020, August 18, 2020, and July 21, 2021. No evidence was received to support that any of the prior FCEs or the one in question were ordered by the division.

Because the requestor did not support that an exception to the maximum number of FCEs applied in this case, the insurance carrier's denial of payment is supported. No reimbursement can be 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
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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.