



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Peak Integrated
Healthcare

Respondent Name

West Bend Mutual Insurance Co

MFDR Tracking Number

M4-23-1222-01

Carrier's Austin Representative

Box Number 1

DWC Date Received

January 27, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 30, 2022	99213	\$167.22	\$167.22
June 30, 2022	99080-73	\$15.00	\$15.00
June 13, 2022	99361-W1	\$113.00	\$0.00
July 13, 2022	99361-W1	\$113.00	\$0.00
July 13, 2022	99213	\$167.22	\$167.22
July 13, 2022	99080-73	\$15.00	\$15.00
July 27, 2022	99213	\$167.22	\$167.22
July 27, 2022	99080-73	\$15.00	\$15.00
September 1, 2022	99213	\$167.22	\$167.22
September 1, 2022	99080-73	\$15.00	\$15.00
Total		\$954.88	\$728.88

Requestor's Position

The requestor did not submit a position statement with this request for Medical Fee Dispute Resolution but did submit a copy of their reconsideration that states, "The patient is entitled to reasonable medical care as stipulated in Texas law as related to the original injury. Office visits are recommended as determined to be medically necessary. Evaluation and management outpatient visits to the offices of medical doctors play a critical role in the proper diagnosis and return to function of an injured worker, and they should be encouraged. Under the workers

compensation act of the Texas Labor code an injured employee is entitled to a lifetime treatment for a compensable injury (see rule 408.021).”

Amount in Dispute: \$954.88

Respondent's Position

The Austin representative for West Bend Mutual Insurance Co is JT Parker & Associates. The representative was notified of this medical fee dispute on January 31, 2023.

Per 28 Texas Administrative Code §133.307(d)(1), if the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the available information.

As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

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 §134.203](#) sets out the reimbursement guidelines for professional medical services.
2. [28 Texas Administrative Code §137.100](#) sets out provision of the treatment guidelines.
3. [28 Texas Administration Code §19.2003](#) sets out the requirements of utilization review.
4. [28 Texas Administration Code 124.2](#) sets out the requirements of plain language notices.
5. [28 Texas Administration Code §134.204](#) sets out billing and reimbursement guidelines for Workers’ Compensation Specific Services.
6. [DWC Texas Administration Code §134.203](#) sets out the reimbursement guidelines for professional services.
7. [DWC Texas Administration Code §129.5](#) sets out reimbursement guidelines for professional services.

Denial Reasons

The insurance carrier denied the payment for the disputed services on different dates of service with the following claim adjustment codes:

- Date of service June 30, 2022.

- Code 99213 – Established patient office visit for the evaluation and management of an established patient, which requires at least 2 of these 3 components; An expanded problem focused history; An expanded problem focused examination; Medical decision making of low complexity
 - Code 99080 -73 Special reports such as insurance forms, more than the information conveyed in the usual medical communications or standard reporting form
 - 190 – Billing for report and/or record review exceeds reasonableness
 - P12 – Workers’ compensation jurisdictional fee adjustment
- Date of service July 13, 2022.
 - Code 99213 as described above
 - Code 99080-73 as described above
 - Code 99361 -W1, Team conference
 - 190 – Billing for report and/or record review exceeds reasonableness
 - P12 – Workers’ Compensation Jurisdictional fee schedule adjustment
- Date of service June 13, 2022
 - Code 99361 – W1
 - 190 – Billing for report and/or record review exceeds reasonableness
 - P12 – Workers’ compensation jurisdictional fee schedule adjustment
- Date of service July 27, 2022
 - 99213 as described above
 - 99080 -73 as described above
 - 6547 – WB2 – Treatment/service provided is not for an accepted body part
- Date of service September 1, 2022
 - 99213 as described above
 - 99080 -73 as described above
 - 6588 – According to medical records, some of the treatment provided was related to a non-accepted body part

Issues

1. Are the insurance carrier's reasons for denial or reduction of payment supported?
2. Did the requestor support requirements of team conference was met?
3. Did the respondent meet the requirements of Plain Language Notification?
4. What is the rule applicable to reimbursement?
5. Are the requirements for reimbursement of work status reports met?
6. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor is seeking reimbursement of \$954.88 for professional medical services rendered from June through September 2022.

The requestor denied the physician services rendered on June 30, 2022, and July 13, 2022 as service exceeds reasonableness.

DWC Rule 28 Texas Administrative Code §137.100 (e) states,

An insurance carrier may retrospectively review, and if appropriate, deny payment for treatments and services not preauthorized under subsection (d) of this section when the insurance carrier asserts that health care provided within the Division treatment guidelines is not reasonably required. The assertion must be supported by documentation of evidence-based medicine that outweighs the presumption of reasonableness established by Labor Code §413.017.

DWC Rule 28 TAC Part 1, Chapter 19, Subchapter U sets out the requirements for utilization review of health care provided under Texas workers' compensation insurance coverage.

Applicable DWC Rule 28 TAC §19.2003 (b)(31) defines retrospective review as "A form of utilization review for health care services that have been provided to an injured employee."

No documentation was found to support the insurance carrier retrospectively reviewed the reasonableness and medical necessity of the service in dispute pursuant to the minimal requirements of Chapter 19, subchapter U as required. The insurance carrier denial for reasonableness is not supported. The physician services in dispute will be reviewed per applicable fee guidelines.

2. DWC Rule 28 TAC §134.204 (e)(1)(A)(B)(2) states,

(e) Case Management Responsibilities by the Treating Doctor is as follows:

(1) Team conferences and telephone calls shall include coordination with an interdisciplinary team.

(A) Team members shall not be employees of the treating doctor.

(B) Team conferences and telephone calls must be outside of an interdisciplinary program. Documentation shall include the purpose and outcome of conferences and telephone calls, and the name and specialty of each individual attending the team conference or engaged in a phone call.

(2) Team conferences and telephone calls should be triggered by a documented change in the condition of the injured employee and performed for the purpose of coordination of medical treatment and/or return to work for the injured employee.

Review of the submitted documents titled "Team Conference" for June 13, 2022, and July 13, 2022 found neither documents indicate what changed in the injured employees condition that triggered the team conference. The DWC finds the documentation requirements for Code 99361 -W1 for dates of service June 13, 2022 and July 13, 2022 is not met. No payment is recommended.

3. The insurance carrier denied dates of service July 27, 2022, and September 1, 2022, for the physician services as "treatment/service provided is not for an accepted body part".

DWC Rule 28 TAC §133.307(d)(2)(H) further requires that if the medical fee dispute involves compensability, extent of injury, or liability, the insurance carrier shall attach a copy of any related Plain Language Notice in accordance with Rule §124.2 (relating to carrier reporting and notification requirements).

DWC Rule 28 TAC §124.2(h) requires notification to the division and claimant of any dispute of disability or extent of injury using plain language notices with language and content prescribed by the division. Such notices "shall provide a full and complete statement describing the carrier's action and its reason(s) for such action. The statement must contain sufficient claim-specific substantive information to enable the employee/legal beneficiary to understand the carrier's position or action taken on the claim."

Review of the submitted information finds no copies, as required by Rule §133.307(d)(2)(H), of any PLN-11 or PLN 1 notices issued in accordance with Rule §124.2.

The insurance carrier's denial reason is not supported.

Because the respondent failed to meet the requirements of Rule §133.307(d)(2)(H) regarding notice of issues of extent of injury, the respondent has waived the right to raise such issues during dispute resolution.

The DWC concludes there are no outstanding issues of compensability, extent, or liability for the injury. The disputed services will be reviewed per the applicable rules and guidelines.

4. DWC TAC 28 §134.203 (c) (1) states in pertinent parts, to determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. For services categories of Evaluation and Management, General Management in an office setting the established conversion factor is (date of service DWC Conversion Factor). The formula to calculate the MAR is DWC Conversion Factor divided by the Medicare Conversion Factor multiplied by the CMS Physician fee schedule amount.
 - DWC Conversion Factor for 2022 - \$62.46
 - CMS Conversion Factor for 2022 - \$34.6062

- Location of service, Dallas Texas
- CMS allowable for code 99213 in Dallas, Texas, \$92.65
- $62.46/34.6062 \times \$92.65 = \167.22
- The MAR is \$167.22. This amount is recommended for Code 99213 for dates of service June 30, 2022, July 13, 2022, July 27, 2022, and September 1, 2022 or $\$167.22 \times 4 = \668.88

5. DWC Rule 28 §129.5 (e) states, "The doctor, delegated physician assistant, or delegated advanced practice registered nurse shall file the Work Status Report:

(1) after the initial examination of the injured employee, regardless of the injured employee's work status;

(2) when the injured employee experiences a change in work status or a substantial change in activity restrictions; and

(3) on the schedule requested by the insurance carrier, its agent, or the employer requesting the report through its insurance carrier, which shall not exceed one report every two weeks and which shall be based upon the doctor's, delegated physician assistant's, or delegated advanced practice registered nurse's scheduled appointments with the injured employee."

The requestor submitted a medical claim for work status reports on the following dates of service.

- The physician indicates the employee may return to work with restrictions from 06/30/22 through 07/14/2022 on the Work Status Report for June 30, 2022.
- The physician indicates the employee may return to work with restrictions from 07/13/2022 through 07/27/2022 on the Work Status Report for July 13, 2022.
- The physician indicates the employee may return to work with restrictions from 7/27/2022 through 08/17/2022 on the Work Status Report for July 27, 2022.
- The physician indicates the employee may return to work with restrictions from 09/01/2022 through 9/29/2022.

Review of the submitted documents found the expected duration of the employee's restriction changed on each report after the employee was evaluated by the treating physician. The insurance carrier's denial of the Work Status Reports is not supported. DWC Rule 129.5 (j) states in pertinent part, "The amount of reimbursement shall be \$15."

The allowed amount for work status reports for dates of service June 30, 2022, July 13, 2022, July 27, 2022 and September 1, 2022 will be \$15.00 each for a total of total of \$60.00

6. The MAR for the disputed services eligible for payment is \$728.88 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 West Bend Mutual Insurance Co must remit to Peak Integrated Healthcare \$728.88 plus applicable accrued interest within 30 days of receiving this order in accordance with [28 TAC §134.130](#).

Authorized Signature

_____	_____	_____
Signature	Medical Fee Dispute Resolution Officer	May 17, 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 electrónico CompConnection@tdi.texas.gov.