

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Marcus Hayes, D.C.

Respondent Name

Liberty Insurance Corp.

MFDR Tracking Number

M4-23-1375-01

Carrier's Austin Representative

Box Number 01

DWC Date Received

February 13, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
November 28, 2022	Functional Capacity Evaluation 97750-FC x 8 units	\$116.27	\$0.00

Requestor's Position

An FCE is billed and reimbursed in accordance with 28 Texas Administrative Code 134.203 (c) (1); however, an FCE is a Division-specific code with a Division-specific modifier (97750-FC) defined as a comprehensive evaluation focusing on measuring the patient's functional abilities (potential for work). CPT code 97750 (physical performance tests/measurements) is classified as an "always therapy" code used to evaluate the patient's performance of a specific activity/group of activities (to assess physical capabilities). Therefore, the FCE is not subject to the Medicare payment provision of a multiple procedure payment reduction for selected therapy services ...

Additionally, FCE does not require pre-authorization as defined by Rule 134.600 because this is an examination and not treatment.

The 11/28/2022 FCE was Mr. Overa's third FCE and 8 units were billed which is within the allowed maximum of 12 units.

Amount in Dispute: \$116.27

Respondent's Position

The bill for DOS 11/28/2022 has been reviewed and denial stands as this is the 4th FCE billed for injury. Per Texas Rule 134.225 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.

Response Submitted by: Liberty Mutual Insurance

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

- 163 – The charge for this procedure exceeds the unit value and/or the multiple procedure rules.
- 309 – The charge for this procedure exceeds the fee schedule allowance.
- 296 – Service exceeds maximum reimbursement guidelines.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.

Issues

1. Is Marcus Hayes, D.C. entitled to reimbursement for the examination in question?

Findings

1. Dr. Hayes is seeking reimbursement for a functional capacity evaluation performed on November 28, 2022. The examination is identified as a division-specific service with billing code 97750-FC.

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."

Per explanations of benefits submitted by the insurance carrier, functional capacity evaluations using billing code 97750-FC were performed September 10, 2014; September 7, 2022; and November 9, 2022. No evidence was submitted to support that these prior evaluations were ordered by the division.

The division finds that Dr. Hayes is not entitled to reimbursement for the examination in question as it exceeds the maximum number allowed. 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

April 14, 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.