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

General Information

Requestor Name
FERGUSON ASHLEY

Respondent Name
STANDARD FIRE INSURANCE CO

MFDR Tracking Number
M4-23-1546-01

Carrier's Austin Representative
Box Number 05

DWC Date Received
February 28, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 18, 2022	Code 99213	$27.00	$27.00
November 2, 2022	Code 99213	$27.00	$27.00
	Total	$54.00	$54.00

Requestor's Position

"Other: According to the EOB, the carrier did not properly reimburse CPT code 99213 on the claim for DOS 10/18/2022 when the claim was processed, CPT code 99213 was only reimbursed $108.00 This amount was less than the agreed upon amount for Texas Worker's Comp. The fee schedule for Texas workers' compensation increased for 2022, as well as the fee schedule for Medicare. According to the Division of Texas Workers' Comp, the carrier is supposed to reimburse, "provider agrees to accept as payment in full for Covered Services rendered to Participant the lesser of the Provider's actual billed charges or 180% of Texas Medicare allowable." This was not done by the carrier when reimbursing for CPT code 99213."

Amount in Dispute: $54.00

Respondent's Position

"The Provider contends they are entitled to full billed charges based on the professional fee schedule requiring payment of the lesser of billed charges or the Maximum Allowable

Reimbursement. A nurse practitioner rendered the services at issue. Per the applicable Medicare reimbursement policies, excerpt attached, nurse practitioners are reimbursed at the 80% of the lesser of billed charge or 85% of the Medicare fee schedule. Consequently, when applying this policy in conjunction with Rule 134.203(b), the Provider was reimbursed at 80% of the billed charge as the lesse of the two reimbursement amount."

Response Submitted by: Travelers

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 guideline for professional medical services.
3. Texas Insurance Code (TIC) 1451.104 allows for different reimbursement for medical doctors and physician assistants or nurse practioners.

Denial Reasons

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

- W3 – Bill is a reconsideration or appeal
- 947 – Upheld no additional allowance has been recommended
- 2005 – No additional reimbursement allowed after review of appeal/reconsideration
- P12 – Workers' compensation jurisdictional fee schedule adjustment
- 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

Issues

1. What are the services in dispute?

2. How are the disputed services reimbursed under the Texas Worker' Compensation system?

3. Is the Requestor entitled to additional reimbursement?

Findings

1. The requestor seeks additional reimbursement for CPT Code 99213 rendered on October 18, 2022 and November 2, 2022. The insurance carrier issued a partial payment and denied the

remaining charge with denial reason code 252 - The recommended allowance is based on the value for services performed by a licensed non-physician practitioner.

CPT code 99213 is described as, "Office or other outpatient visit for the evaluation and management of an established patient, which requires a medically appropriate history and/or examination and low level of medical decision making."

2. The requestor seeks reimbursement for an office visit, CPT Code 99213 rendered by a phsyician's assistant (PA). The insurance carrier issued a payment in the amount of $108.00 for each date of service in dispute, which is 80% of the billed amount. The insurance carrier's reduction of payment is based on Medicare's non-physician reimbursement policies. The DWC will now consider if the 80% of the billed amount reimbursement applies to PA's.

   Texas Insurance Code Sec. 1451.104 states in part:

   > (c) 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 amount than physicians.

   28 TAC §134.203 Medical Fee Guideline for Professional Services, states:

   > (a) (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.

   Chapter 12 of the Medicare Claims Processing Manual states, "110 - 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 Nurse Practioner(NP) 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."

A physician is paid for code 99213 at the Medicare rate plus a DWC multiplier. Reimbursing a NP at 80 percent of the actual charge is not the same methodology used for physician reimbursement and is contrary to TIC 1451.04(c). The DWC finds that the requestor is therefore entitled to 85% of the Medicare Physician Fee Schedule.

28 TAC §134.203 states in pertinent part, "(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, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery 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 the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = Maximum Allowable Reimbursement (MAR).

- The 2022 DWC Conversion Factor is 62.46
- The 2021 Medicare Conversion Factor is 34.6062
- The DWC Conversion Factor divided by the Medicare Conversion Factor is 1.80487889
- Per the medical bill, the servies were rendered in San Marcos, Tx; therefore, the Medicare locality is "Rest of Texas."
- The Medicare Particapting amount for CPT code 99213 at this locality is $88.65
- 85% of the CMS Fee Schedule = Medicare Particiapting amount of $75.35
- Using the above formula, the DWC finds the MAR is $75.35 x 1.80487889 = $136.00
- The respondent paid $108.00 for both dates of service in dispute. The MAR is $136 per date of service. The requestor billed $135.
- 134.203 (h) states: "When there is no negotiated or contracted amount that complies with Labor Code §413.011, reimbursement shall be the least of the: (1) MAR amount;."
- The requestor is seeking reimbursement in the amount of $54.00
- Therefore, reimbursment in the amount of $54.00 is recommended

3. The DWC finds that the requestor is therefore entitled to an additional payment amount of $54.00. 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 of $54.00 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 STANDARD FIRE INSURANCE CO must remit to FERGUSON ASHLEY $54.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

[redacted]		April 6, 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.