



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Gulf Coast Functional Testing

**Respondent Name**

Sompo America Insurance Co.

**MFDR Tracking Number**

M4-23-1811-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

March 22, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
August 26, 2022	Functional Capacity Evaluation 97750-FC-GP	\$450.00	\$0.00

### Requestor's Position

The treating doctor recommended the services. We feel that our facility should be paid according to the workers compensation fee schedule guidelines.

**Amount in Dispute:** \$450.00

### Respondent's Position

"... the documents that form the request for reconsideration do not provide any bill-specific, substantive explanation of a rational basis to modify the carrier's previous position. Accordingly, the provider has not properly appealed the case to Medical Fee Dispute Resolution ... The provider is not entitled to any payment as noted in the carrier's EOBs dated September 22, 2022 and January 26, 2023.

**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 §133.250](#) sets out the procedures for requests for reconsideration.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [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.
- 90563 (193) – Original payment is being maintained. Upon review, it was determined that this claim was processed properly.
- 90950 – This bill is a reconsideration of a previously reviewed bill. Allowance amount reflects any changes to the previous payment.

### Issues

1. Is Sampo America Insurance Co.'s denial of payment supported?
2. Is Gulf Coast Functional Testing entitled to additional reimbursement?

### Findings

1. Gulf Coast Functional Testing is seeking reimbursement for a functional capacity evaluation (FCE) performed on August 26, 2022. Sampo America Insurance Co. denied payment based on fee schedule adjustment, stating that the "service exceeds maximum reimbursement guidelines."

Per 28 TAC §134.225,

... 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 ... Reimbursement shall be for up to a maximum of four hours for the initial test or for a division ordered test; a maximum of two hours for an interim test; and a maximum of three hours for the discharge test, unless it is the initial test.

DWC found no evidence to support that the examination in question exceeded either the maximum number of FCEs allowed or the maximum time allowed for this service.

2. Because the insurance carrier failed to support its denial of payment, Gulf Coast Functional Testing is entitled to review for reimbursement.

Per 28 TAC §134.225,

... Documentation is required. FCEs shall include the following elements:

- (1) A physical examination and neurological evaluation, which include the following:
  - (A) appearance (observational and palpation);
  - (B) flexibility of the extremity joint or spinal region (usually observational);
  - (C) posture and deformities;
  - (D) vascular integrity;
  - (E) neurological tests to detect sensory deficit;
  - (F) myotomal strength to detect gross motor deficit; and
  - (G) reflexes to detect neurological reflex symmetry.
- (2) A physical capacity evaluation of the injured area, which includes the following:
  - (A) range of motion (quantitative measurements using appropriate devices) of the injured joint or region; and
  - (B) strength/endurance (quantitative measures using accurate devices) with comparison to contralateral side or normative database. This testing may include isometric, isokinetic, or isoinertial devices in one or more planes.
- (3) Functional abilities tests, which include the following:
  - (A) activities of daily living (standardized tests of generic functional tasks such as pushing, pulling, kneeling, squatting, carrying, and climbing);
  - (B) hand function tests that measure fine and gross motor coordination, grip strength, pinch strength, and manipulation tests using measuring devices;
  - (C) submaximal cardiovascular endurance tests which measure aerobic capacity using stationary bicycle or treadmill; and
  - (D) static positional tolerance (observational determination of tolerance for sitting or standing).

DWC finds that the submitted documentation does not support a functional capacity evaluation as defined in 28 TAC §134.225. Therefore, 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

\_\_\_\_\_  
May 19, 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](http://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](mailto: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](mailto:CompConnection@tdi.texas.gov).