



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

Marcus Hayes, D.C.

Respondent Name

Safety National Casualty Corp.

MFDR Tracking Number

M4-23-1861-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

March 31, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
02/28/2023	97750-FC 11 units	\$164.96	\$13.80

Requestor's Position

"... Position Statement: As stated in my request for reconsideration: Regarding '163': The DIVISION, not Medicare, sets forth specific criteria that must be met in order to qualify as a FCE per Texas Administrative Code. Therefore, the payment reduction is not supported because 28 Texas Administrative Code 134.204 (a) states that, 'Applicability of this rule is as follows: (5) Specific provisions contained in the Labor Code or the Texas Department of Insurance, Division of Workers' Compensation (Division) rules, including this chapter, shall take precedence over any conflicting provision adopted or utilized by the Centers for Medicare and Medicaid Services (CMS) in administering the Medicare program...' The procedure code 97750-FC falls into this exception... [patient's name] 02/28/2023 FCE was her initial FCE and up to 16 units are allowed for initial FCEs. The 02/28/2023 FCE consisted of 11 units. Sedgwick remitted \$550.04 and correct reimbursement should've been \$715.00. Therefore, AI&FATC requests that Sedgwick remit the balance due of \$164.96 for said procedure performed on said date on said claimant... "

Amount in Dispute: \$164.96

Respondent's Position

"The provider filed a DWC-60 seeking medical fee dispute resolution for an FCE based upon a date of service of February 28, 2023. The provider billed for 11 units for a total of \$715.00. The provider acknowledged that the carrier already reimbursed him in the amount of \$550.04. The provider is seeking additional payment of \$164.96. We are attaching a copy of the provider's CMS-1500, the FCE report, the carrier's initial EOR dated March 17, 2023, the provider's second CMS-1500 and the carrier's EOR in response to it dated March 30, 2023. The March 17, 2023, EOR recommended payment of \$550.04. The Carrier's position is that the provider is not entitled to any additional monies. The first page of the carrier's attachments provides the calculation in arriving at an allowance amount of \$550.04. The carrier prays for a finding consistent with its position..."

Response Submitted by: Safety National Casualty Corp.

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 (TAC) §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. 28 TAC §134.210 applied to fee guidelines for division-specific services.
4. 28 TAC §134.225 sets the reimbursement guidelines for FCEs.

Denial Reasons

The insurance carrier reduced or denied 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.
- 119 – Benefit maximum for this time period or occurrence has been reached.
- 1014 - The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
- 193 - Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Is Marcus Hayes, D.C. entitled to additional reimbursement?

Findings

1. Dr. Hayes is seeking additional reimbursement for a functional capacity evaluation performed on February 28, 2023. 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) ... 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."

Per 28 TAC §134.203 (b)(1), parties are required to apply Medicare payment policies, including its coding, billing, correct coding initiatives (CCI) edits, modifiers, and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules to workers' compensation coding, billing, reporting, and reimbursement of professional medical services.

28 TAC §§134.203 (a)(7) and 134.210 (a) state that specific provisions contained in the Texas Labor Code or division rules shall take precedence over any conflicting provision adopted or utilized by CMS in administering the Medicare program. However, no such conflict regarding billing or reimbursement was found that applies to a division-specific functional capacity evaluation. Therefore, Medicare reimbursement rules are applied to the examination in question.

Per [Medicare Claims Processing Manual \(cms.gov\)](#), Chapter 5, 10.7, effective February 6, 2019:

Medicare applies a multiple procedure payment reduction (MPPR) to the practice expense (PE) payment of select therapy services. The reduction applies to the HCPCS codes contained on the list of "always therapy" services ...

Many therapy services are time-based codes, i.e., multiple units may be billed for a single procedure ...

Full payment is made for the unit or procedure with the highest PE payment ... For subsequent units and procedures with dates of service on or after April 1, 2013, furnished to the same patient on the same day, full payment is made for work and malpractice and 50 percent payment is made for the PE for services submitted on either professional or institutional claims.

Procedure code 97550 is classified as "always therapy" in the 2022 Therapy Code List and Dispositions found in the [Annual Therapy Update | CMS](#) and has a value of "5" on the MFSD. Therefore, the MPPR applies to the reimbursement of this code.

On the disputed date of service, the requestor billed CPT code 97550-FC X 11 units.

As described above, the multiple procedure discounting rule applies to the disputed service.

The MPPR Rate File that contains the payments for 2023 services is found at <https://www.cms.gov/Medicare/Billing/TherapyServices/index.html>.

To determine the MAR the following formula is used:

$(\text{DWC Conversion Factor} / \text{Medicare Conversion Factor}) \times \text{Medicare Payment} = \text{MAR}$.

- MPPR rates are published by carrier and locality.
- The disputed date of service is February 28, 2023.
- The disputed service was rendered in zip code 77581, locality 09, carrier 4412.
- The Medicare participating amount for CPT code 97750 at this locality is \$34.73 for the first unit, and \$25.28 for subsequent units.

- The 2023 DWC Conversion Factor is 64.83
- The 2023 Medicare Conversion Factor is 33.06
- Using the above formula, the DWC finds the MAR is \$563.84
- The respondent paid \$550.04
- Additional reimbursement of \$13.80 is recommended.

The division finds that the requestor has established that additional reimbursement is due.

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.

The division finds 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 service.

It is ordered that Safety National Casualty Corp. must remit to Marcus Hayes, D.C., \$13.80 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 1, 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.