TDI Division of Workers' Compensation
PO Box 12050 | Austin, TX 78711 | 800-252-7031 | tdi.texas.gov/wc

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Surgery Specialty Hospital of America

Respondent Name
Insurance Co of the State of PA

MFDR Tracking Number
M4-23-2138-01

Carrier's Austin Representative
Box Number 19

DWC Date Received
May 2, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
January 13, 2023	64635-50 Bilateral Procedure	$1,789.43	$1,789.43
	Total	$1,789.43	$1,789.43

Requestor's Position

"The Carrier is required to reimburse the Provider $5,368.29 pursuant to the Outpatient Fee Guideline. The Carrier made a partial payment of $3,578.86. Therefore the Carrier is required to reimburse the Provide an additional amount of $1,789.43, plus all applicable interest."

Amount in Dispute: $1,789.43

Respondent's Position

"The Provider billed CPT codes 64635 and 64636 for the bilateral procedure. Both of these CPT codes are classified as J1 codes. When multiple J1 codes are billed, the highest valued code is reimbursed, in this case 64635, and the lesser codes are included, in this case 64636. Because all J1 codes are treated in this manner, J1 codes are exempted from the bilateral procedure."

Response submitted by: Constitution State Services

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 TAC §133.307 sets out the procedures for resolving medical fee disputes.

2. 28 TAC §134.403 sets out the fee guidelines for outpatient hospital services.

Denial Reasons

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

- 16 – Claim/service lacks information or has submission/billing error(s) which is needed for adjudication
- P12 – Workers' compensation jurisdictional fee schedule adjustment
- 97 – Payment adjusted because the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated

Issues

1. Is the respondent's position statement supported?

2. What rule is applicable to reimbursement?

3. Is the requester entitled to additional reimbursement?

Findings

1. The requestor is seeking reimbursement for bilateral procedure rendered during outpatient surgery in January of 2023. The respondent states in their position statement, "When multiple J1 codes are billed, the highest valued code is reimbursed, in this case 64635, and the lesser codes are included, in this case 64636. Because all J1 codes are treated in this manner, J1 codes are exempted from the bilateral procedure." DWC Rule 28 TAC §134.403 (d) requires Texas workers' compensation system participants when coding, billing, reporting and reimbursement to apply Medicare payment policies in effect on the date of service.

   The Medicare claims processing manual at Chapter 4, Section 10.5 - Discounting at www.cms.gov states in pertinent parts,

• Multiple surgical procedures furnished during the same operative session are discounted.
• The full amount is paid for the surgical procedure with the highest weight;
• Fifty percent is paid for any other surgical procedure(s) performed at the same time;
• Similar discounting occurs now under the physician fee schedule and the payment system for ASCs

Based on the above the respondent's position is not supported. The disputed service will be reviewed per applicable fee guideline.

2. The Medicare payment policy applicable to the services in dispute is found at www.cms.gov, Claims processing Manual, Chapter 4, Section 10.1.1. Specifically, Payment Status Indicators and Ambulatory Payment Category (APC).

DWC Rule 28 TAC 134.403 (e) states in pertinent part, regardless of billed amount, when no specific fee schedule or contract reimbursement shall be the maximum allowable reimbursement (MAR) amount under subsection (f) of this section including any applicable outlier payment amounts and reimbursement for implantables.

DWC Rule 28 TAC 134.403 (f) states in pertinent part the reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register*.

The Medicare facility specific amount is calculated when the APC payment rate is multiplied by 60% to determine the labor portion. This amount is multiplied by the facility wage index for the date of service. The non-labor amount is determined when the APC payment rate is multiplied by 40%. The sum of the labor portion multiplied by the facility wage index and the non-labor portion determines the Medicare specific amount. Review of the submitted medical bill and the applicable fee guidelines referenced above is shown below.

- Procedure code 64635 has status indicator J1, for procedures paid at a comprehensive rate. All covered services on the bill are packaged with the primary "J1" procedure.

  This code is assigned APC 5431. The OPPS Addendum A rate is $1,797.52. This is multiplied by 60% for an unadjusted labor amount of $1,078.51, in turn multiplied by facility wage index 0.9925 for an adjusted labor amount of $1,070.42.

  The non-labor portion is 40% of the APC rate, or $719.01.

  The sum of the labor and non-labor portions is $1,789.43.

  The Medicare facility specific amount is $1,789.43 multiplied by 200% for a MAR of $3,578.86.

  The claim line on the medical bill contained modifier -50 which means, bilateral procedure performed on both sides of the body. Review of the submitted operative

report supports the procedure performed was done on the left and right side. The Medicare facility specific amount is $1,789.43 divided by 50% = $894.71 x 200% = $1,789.43

3. The total recommended reimbursement for the disputed services is $5,368.29. The insurance carrier paid $3,578.86. Additional payment of $1,789.43 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 $1,789.43 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 Insurance Co of the State of PA must remit to Surgery Specialty Hospitals $1,789.43 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	June 15, 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 electronico CompConnection@tdi.texas.gov.