



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Jasso Gabriel PhD

Respondent Name

Cherokee Insurance Co

MFDR Tracking Number

M4-23-2487-01

Carrier's Austin Representative

Box Number 16

DWC Date Received

May 27, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
November 29, 2022	96116	\$0.00	\$0.00
November 29, 2022	96121	\$0.00	\$0.00
November 29, 2022	96132	\$0.00	\$0.00
November 29, 2022	96133	\$931.68	\$0.00
November 29, 2022	96136	\$0.00	\$0.00
November 29, 2022	96137	\$145.85	\$0.00
Total		\$1077.53	\$0.00

Requestor's Position

"The components noted above are performed on the date(s) of service on this narrative report and reflect the time spent, both face to face with the examinee as well as all other components of the test as listed in the narrative report and outlined as such: Review of Medical Records submitted for evaluation; Examinee Interview & Neurobehavioral/Mental Status Examination; Neuropsychological Testing; Grading/Interpretation/Integration as listed above. ...The narrative report supports the number of itemized units on the HCFA 1500."

Amount in Dispute: \$1077.53

Respondent's Position

The Austin carrier representative for Cherokee Ins Co is Adami Shuffield Scheihing & Burns. The representative was notified of this medical fee dispute on June 6, 2023.

Per 28 Texas Administrative Code §133.307(d)(1), if the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the available information.

As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

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 §134.203](#) sets out the billing requirements for professional services.

Denial Reasons

The insurance carrier reduced or denied the disputed service(s) with the following claim adjustment codes.

- 350 – Bill has been identified as a request for reconsideration or appeal.
- 641 – The medically unlikely edits (MUE) from CMS has been applied to this procedure code.
- 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
- W3 – In accordance with TDI-DWC Rule 134.804, this bill has been identified as a request for reconsideration or appeal.

Issues

1. Is the insurance carrier's denial supported?
2. Is the number of units of disputed service supported?

Findings

1. The requestor is seeking additional reimbursement for CPT code 96133 - Neuropsychological

testing evaluation services by physician or other qualified health care professional, including integration of patient data, interpretation of standardized test results and clinical data, clinical decision making, treatment planning and report, and interactive feedback to the patient, family member(s) or caregiver(s), when performed; each additional hour (List separately in addition to code for primary procedure) and 96137 – the provider, a physician or other qualified healthcare professional, administers two or more psychological or neuropsychological tests and scores them requiring an additional 30 minutes beyond the initial 30 minutes.

The insurance carrier denied the claim lines based on the Medicare Unlikely Edits (MUE). MUE's were implemented by Medicare in 2007. MUE's set a maximum number of units for a specific service that a provider would report under most circumstances for a single patient on a single date of service. Medicare developed MUE edits to detect potentially medically unnecessary services.

Although the DWC adopts Medicare payment policies by reference in applicable Rule §134.203, paragraph (a)(7) of that rule states that specific provisions contained in the Division of Workers' Compensation rules shall take precedence over any conflicting provision adopted the Medicare program.

The Medicare MUE payment policy is in direct conflict with Texas Labor Code §413.014 which requires that all determinations of medical necessity shall be made prospectively or retrospective through utilization review; and with Rule §134.600 which sets out the procedures for preauthorization and retrospective review of professional services such as those in dispute here. The DWC concludes that Labor Code §413.014 and 28 TAC §134.600 take precedence over Medicare MUE's; therefore, the respondent's denial reasons are not supported.

2. The requestor states in their position statement, "The narrative report supports the number of itemized units on the HCFA 1500."

DWC 28 134.203 (b) states in pertinent part, for coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits.

The Medicare National Correct Coding Initiative Policy Manual (NCCI) manual found at www.cms.gov, Chapter XI, Evaluation and Management Services, CPT Codes 90000 – 99999, Section M, 2, states, *Since the procedures described by CPT codes 96130-96139 are timed procedures, providers/suppliers **shall not report time** for duplicating information (collection or interpretation) included in the psychiatric diagnostic interview examination and/or psychological/neuropsychological evaluation services or test administration and scoring.*

No payment 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 additional reimbursement for the disputed services.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	July 20, 2023 Date
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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.