



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

Gavin Wolff, D.C.

Respondent Name

LM Insurance Corp.

MFDR Tracking Number

M4-23-2597-01

Carrier's Austin Representative

Box Number 1

DWC Date Received

June 9, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
09/29/2022	97750	\$590.70	\$7.57

Requestor's Position

"The injured worker was scheduled for a Designated Doctor examination as per the DWC032 dated 08/25/2022. The appointment took place on 09/29/2022 and the complete/clean bill was submitted to the carrier for reimbursement on 10/05/2022. Despite countless attempts to obtain an explanation of benefits, it has not been provided to date (see billing notes with the dates, times and persons which correspondence was made)."

Amount in Dispute: \$590.70

Respondent's Position

"We base our payments on the Texas Fee Guidelines and the Texas Department of Insurance Division of Workers' Compensation Acts and Rules. This is not a network claim as DDE referred testing. The bill has been reviewed and adjusted for payment - copies of EOBs are for your review."

Response Submitted by: Liberty Mutual Insurance

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](#) applies to fee guidelines for division-specific services.
4. [28 TAC §134.225](#) sets the reimbursement guidelines for FCEs.

Adjustment Reasons

The insurance carrier reduced 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.
- 876 – Fee schedule is equal to the charge.
- 119 - Benefit maximum for this time period or occurrence has been reached.

Issues

1. Has the disputed service received payment as of the date of this medical fee dispute review?
2. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor is seeking reimbursement in the amount of \$590.70 for CPT code 97750-FC rendered on September 29, 2022, per the DWC060 medical fee dispute resolution (MFDR) request form received by DWC on June 9, 2023.

Review of submitted documentation finds in an explanation of benefits (EOB) dated June 22, 2023, the insurance carrier allowed reimbursement in the amount of \$470.06 plus a separate interest payment in the amount of \$20.79. The requestor has confirmed receipt of payment in the amount of \$470.06.

DWC finds that the service in dispute has received reimbursement in the amount of \$470.06, plus separate interest payment.

2. The requestor is seeking additional reimbursement for 10 units of a functional capacity evaluation (FCE) performed on September 29, 2022. 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 97750 is classified as “always therapy” in the 2022 Therapy Code List and Dispositions found in the [Annual Therapy Update | CMS](#). Therefore, the MPPR applies to the reimbursement of this code.

28 TAC §134.203 states in pertinent part, “(c) To determine the Maximum Allowable Reimbursement (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. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32. (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...”

On the disputed date of service, the requestor billed CPT code 97750-FC X 10 units.

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

The MPPR Rate File that contains the payments for 2022 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 September 29, 2022.
- The disputed service was rendered in zip code 75247, locality 11, Dallas.
- The Medicare participating amount for CPT code 97750 in 2022 at this locality is \$34.77 for the first unit, and \$25.54 for subsequent units.
- The 2022 DWC Conversion Factor is 62.46
- The 2022 Medicare Conversion Factor is 34.6062
- Using the above formula, the DWC finds the MAR is \$477.63.
- The respondent paid \$470.06 (plus interest).
- Additional reimbursement in the amount of \$7.57 is recommended.

DWC finds that additional reimbursement of \$7.57 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.

DWC finds that the requestor has established that additional reimbursement in the amount of \$7.57 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 Liberty Mutual Insurance Corp. must remit to Gavin Wolff, D.C. \$7.57 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

_____	_____	September 13, 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 electrónico CompConnection@tdi.texas.gov.