



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

Mark Wesley Bailey, D.C.

Respondent Name

Old Republic Insurance Co.

MFDR Tracking Number

M4-23-2692-01

Carrier's Austin Representative

Box Number 44

DWC Date Received

June 21, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
12/19/2022	97750-FC	\$274.90	\$0.00

Requestor's Position

"It is our position that the carrier has denied payment for the above listed Date of Service of the services provided inappropriately, and is responsible for the \$274.90 still owed for the Functional Capacity Evaluation."

Amount in Dispute: \$274.90

Respondent's Position

The bill in question was processed per the Texas Fee Guidelines. The initial bill was processed on ICN: 1632-2192841 for DOS 12/19/22 and allowed all 16 units billed. The MAR amount for the region TX99 is \$59.85 x 16 = \$957.60. The bill review system then applied the PT Cascade discount to the services bringing the final bill allowance down to \$725.10. There was no PPO reduction that was applied to this bill. The was paid correctly per TX MAR and MPR rules."

Response Submitted by: White Espey, PLLC

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.

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.
- 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.
- 2005 - NO ADDITIONAL REIMBURSEMENT ALLOWED AFTER REVIEW OF APPEAL/RECONSIDERATION.
- 193 Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- W3 – BILL IS A RECONSIDERATION OR APPEAL.

Issues

1. Is the insurance carrier's reimbursement reduction reason supported?
2. Is the requestor entitled to additional reimbursement for 97750-FC rendered on December 19, 2022?

Findings

1. The requestor billed \$1,000.00 for 16 units of a functional capacity evaluation (FCE) rendered on date of service December 19, 2022, using CPT code 97750-FC. The insurance carrier reduced reimbursement for disputed service based on reduction reason code 163, defined above.

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 \(cms.gov\)](https://www.cms.gov/Medicare/Claims-Processing-Manual), 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](https://www.cms.gov/medicare/coverage/policies/2022sct/2022-therapy-code-list-and-dispositions). Therefore, the MPPR applies to the reimbursement of this code.

The division finds that the insurance carrier's reimbursement reduction reason is supported.

2. On the disputed date of service, the requestor billed CPT code 97550-FC X 16 units.

As described above, the MPPR rule applies to the disputed service.

The MPPR Rate File that contains the payments for 2022 services is found at www.cms.gov/Medicare/Billing/TherapyServices/index.html.

To determine the maximum allowable reimbursement (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 December 19, 2022.
- The disputed service was rendered in zip code 78575, locality 99, "Rest of TX".
- The Medicare participating amount for CPT code 97750 at this locality is \$33.16 for the first unit, and \$24.57 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 \$725.04.
- The respondent paid \$725.10
- No additional reimbursement 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.

The division finds that the requestor 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 service.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	July 25, 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.