



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

Kiva Davis, D.C.

Respondent Name

TASB Risk Management Fund

MFDR Tracking Number

M4-23-3114-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

August 9, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
04/6/2023	97750-FC	\$532.88	\$262.80

Requestor's Position

"... FCE's are billed in 15 minute increments and displayed as such on the unit's column of the HCFA. Each unit is billed accordingly based on Medical Fee Guideline conversion factors as established by DWC rule."

Amount in Dispute: \$532.88

Respondent's Position

"This request will be standing on the previous allowance of \$534.64, and no additional allowance is recommended as the charges were paid correctly per the TX Fee Schedule for a maximum of 4 hours for a Functional Capacity Evaluation."

Response Submitted by: TASB Risk Management Fund

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 §134.225](#) sets the reimbursement guidelines for FCEs.

Adjustment Reasons

The insurance carrier reduced the payment for the disputed service with the following claim adjustment codes:

- 281 – FUNCTIONAL CAPACITY EVALUATIONS ARE ALLOWED A MAXIMUM OF FOUR HOURS FOR AN INITIAL OR THREE TIMES FOR EACH INJURED WORKER.
- 350 – BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
- P12 – WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
- W3 - IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.

Issues

1. What rules apply to the reimbursement of the disputed service?
2. Is the Requestor entitled to additional reimbursement for CPT code 97750-FC?

Findings

1. The service in dispute involves CPT code 97750-FC, which is defined as a functional capacity evaluation (FCE). DWC finds that the following Texas Administrative Code Rules apply to the reimbursement of 97750-FC:

The applicable reimbursement guideline for FCEs is found at 28 TAC §134.225, which states, "The following applies to functional capacity evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT code 97750 with modifier 'FC.' FCEs shall be reimbursed in accordance with §134.203(c) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a division ordered test; a maximum of two hours for an interim test; and a maximum of three hours for the discharge test unless it is the initial test. Documentation is required."

28 TAC §134.203(b)(1) which sets out fee guidelines for professional medical services, states, "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs);

and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.”

Medicare Claims Processing Manual Chapter 5, 10.7-effective June 6, 2016, titled Multiple Procedure Payment Reductions (MPPR) for Outpatient Rehabilitation Services, states in pertinent part:

“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.

To determine which services will receive the MPPR, contractors shall rank services according to the applicable PE relative value units (RVU) and price the service with the highest PE RVU at 100% and apply the appropriate MPPR to the remaining services. When the highest PE RVU applies to more than one of the identified services, contractors shall additionally sort and rank these services according to highest total fee schedule amount, and price the service with the highest total fee schedule amount at 100% and apply the appropriate MPPR to the remaining services.”

The multiple procedure payment reduction discounting rule applies to the disputed service.

28 TAC §134.203, which applies to the reimbursement of the service in dispute, 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...”

2. The requestor is seeking additional reimbursement of \$532.88 for 16 units of CPT code 97750-FC rendered on April 6, 2023. Review of medical documentation submitted finds that the requestor documented and billed a four-hour (16 unit) FCE in accordance with 28 TAC §134.225 on the disputed date of service.

As described in Finding #1 above, the multiple procedure payment reduction (MPPR) discounting rule applies to the disputed service.

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

To determine the MAR in accordance with 28 TAC §134.203, the following formula is used:
(DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = MAR.

- MPPR rates are published by carrier and locality.
- Disputed service was rendered in zip code 77042, locality 18, Houston.
- The disputed date of service is April 6, 2023.
- The Medicare participating amount for CPT code 97750 in 2023 at this locality is \$34.93 for the first unit, and \$25.46 for each subsequent 15 units.
- The 2023 DWC Conversion Factor is 64.83
- The 2023 Medicare Conversion Factor is 33.8872
- Using the above formula, the DWC finds the MAR is \$797.44.
- The respondent paid \$534.64.
- Additional reimbursement in the amount of \$262.80 is recommended.

The division finds that additional reimbursement in the amount of \$262.80 is due to the requestor.

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 the requestor has established that additional reimbursement is due in the amount of \$262.80

Order

Under Texas Labor Code §§413.031 and 413.019, the Division has determined the requestor is entitled to additional reimbursement for the disputed service.

It is ordered that TASB Risk Management Fund must remit to Kiva Davis, D.C. \$262.80 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

September 11, 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.