



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Jasso Gabriel PhD

**Respondent Name**

Protective Insurance Co

**MFDR Tracking Number**

M4-23-3153-01

**Carrier's Austin Representative**

Box Number 17

**DWC Date Received**

August 14, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
April 14, 2023	96116	\$0.00	\$0.00
April 14, 2023	96121	\$0.00	\$0.00
April 14, 2023	96132	\$0.00	\$0.00
April 14, 2023	96133	\$964.11	\$0.00
April 14, 2023	96136	\$0.00	\$0.00
April 14, 2023	96137	\$151.71	\$0.00
<b>Total</b>		<b>\$1115.82</b>	<b>\$0.00</b>

### Requestor's Position

"The carrier has not paid this claim in accordance and compliance with TDI-DWC Rule 133 and 134. The carrier has not responded or has denied this claim in its entirety following our filing of Request for Reconsideration...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: ...The narrative report supports the number of itemized units on the HCFA 1500.

**Amount in Dispute:** \$1115.82

### Respondent's Position

“While rule §127.10(c) addresses the Designated Doctor’s right to refer for additional testing without preauthorization requirements or the application of medical necessity review, neither this rule nor any rule in chapter 134 indicates the MUE rules are not applicable under a Designated Doctor referral for testing.”

**Response submitted by:** CorVel

## **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.

- RAI – Medically Unlikely Edit: DOS exceeds MUE value.
- W3 – Appeal/ Reconsideration.
- P13 – Payment reduced/denied based on state WC regs/policies.
- Note: Medically Unlikely Edits: Nature of Service/Procedure for Practitioner Services. DOS exceeds MUE Value 11.

### Issues

1. Is the insurance carrier’s denial supported?
2. Are 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 reduced the number of allowed units as the Medically Unlikely Edits (MUE)

from CMS has been applied to this procedure code.

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. DWC Rule §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](http://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 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 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 services.

### **Authorized Signature**

September 11, 2023

Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

## 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](http://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](mailto: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](mailto:CompConnection@tdi.texas.gov).