



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

PARADIGM NEURODIAGNOSTICS

Respondent Name

INSURANCE COMPANY OF THE WEST

MFDR Tracking Number

M4-23-3240-01

Carrier's Austin Representative

Box Number 04

DWC Date Received

August 23, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 19, 2023 and May 20, 2023	95716 x 2 and 95724	\$949.88	\$15.36
Total		\$949.88	\$15.36

Requestor's Position

"DESIGNATED DOCTOR REFERRED TESTING INCORRECT REDUCTION."

Amount in Dispute: \$949.88

Respondent's Position

"Mitchell our medical billing analysis, has reviewed the dispute and believes that no additional payment is warranted, based on its analysis..."

Response Submitted by: ICW Group

Findings and Decision

Authority

This medical fee dispute is decided according to [Texas Labor Code \(TLC\) §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](#)) [§133.305](#) sets out the procedures for resolving medical disputes.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §134.203](#) sets out the fee guideline for professional medical services.
4. [28 TAC §134.1](#), provides for fair and reasonable reimbursement of health care in the absence of an applicable fee guideline.

Denial Reasons

The insurance carrier denied the payment for the disputed services with the following claim adjustment codes:

- 350 – Bill has been identified as a request for reconsideration or appeal.
- 360 – Allowance for this procedure was made at the usual and customary amount for this geographical area.
- 790 – This charge was reimbursed in accordance to the Texas medical fee guideline.
- 915 – This line item was reviewed using the fair health charge benchmark data-based modules based on the provider geographical area.
- P12 – Workers Compensation jurisdictional fee schedule adjustment.
- P5 – Based on payer reasonable and customary fees no maximum allowable defined by legislated fee arrangement.
- W3 – In accordance with the TDI-DWC rule 134.804, this bill has been identified as a request for reconsideration or appeal.
- NOTE: Reconsideration confirmed bill has been reprocessed per fair health reasonable and customary fees.

Issues

1. What is the description of the disputed CPT codes?
2. Did the requestor submit documentation to support the fair and reasonable reimbursement rate for CPT code 95716?
3. Is the requestor entitled to additional reimbursement for CPT Code 95724?

Findings

1. The requestor seeks additional reimbursement for CPT codes 95716 and 95724 on May 19, 2023 and 95716 rendered on May 20, 2023. The insurance carrier issued payments totaling \$29,285.12 and the requestor seeks an additional payment in the amount of \$949.88.

28 TAC §134.203(b)(1) 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."

CPT code 95716 is described as, "Electroencephalogram with video (VEEG), review of data, technical description by EEG technologist, each increment of **12-26** hours; with continuous, real-time monitoring and maintenance."

CPT code 95724 is described as, "Electroencephalogram (EEG), continuous recording, physician or other qualified health care professional review of recorded events, analysis of spike and seizure detection, interpretation, and summary report, complete study; greater than **60** hours, up to **84** hours of EEG recording, with video (VEEG)."

2. The requestor seeks additional reimbursement for CPT code 95716 rendered on May 19, 2023 and May 20, 2023. The DWC finds the following:

CPT code 95716

- The requestor billed the insurance carrier \$14,429.00 for CPT code 95716 rendered on May 19, 2023 and May 20, 2023.
- The insurance carrier issued a payment in the amount of \$14,328.99 for each disputed date of service.
- The requestor seeks an additional payment of \$100.01 for each date of service.

The service in dispute is not priced by CMS; therefore, they are subject to the fair and reasonable reimbursement provisions of 28 TAC §134.1.

28 TAC §134.1, effective March 1, 2008, 33 *Texas Register* 626, which requires that, in the absence of an applicable fee guideline or a negotiated contract, reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with subsection 134.1(f), which states that "Fair and reasonable reimbursement shall: (1) be consistent with the criteria of Labor Code §413.011; (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available."

Texas Labor Code §413.011(d) requires that fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. It further requires that the Division consider the increased security of payment afforded by the Act in establishing the fee guidelines.

28 TAC §133.307(c)(2)(O) When filing a fee dispute the health care provider is required to submit "documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 of this title... when the dispute involves health care for which the Division has not established a maximum allowable reimbursement (MAR) or reimbursement rate, as applicable."

- The requestor did not submit a position statement specific to the disputed services, for consideration in this dispute.
- The requestor has not articulated a methodology under which fair and reasonable reimbursement should be calculated.
- The requestor's position statement for increased reimbursement from the *Table of Disputed Services* asserts, "Designated doctor referred testing incorrect reduction."
- The requestor did not submit documentation to support a fair & reasonable reimbursement for the disputed services.
- The requestor does not discuss or explain how documentation submitted supports the requestor's position that the amount sought is a fair and reasonable reimbursement for the services in this dispute.
- The requestor did not provide documentation to demonstrate how it determined its usual and customary charges for the disputed services.
- Documentation of the amount of reimbursement received for these same or similar services was not presented for review.
- The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
- The requestor did not support that payment of the requested amount would satisfy the requirements of 28 TAC §134.1.

The requestor has failed to meet the requirements of DWC rules and the Labor Code. The requestor has the burden of proof at MFDR to support their request for additional reimbursement by a preponderance of the evidence. DWC concludes the requestor provided insufficient information to meet that burden. Consequently, additional payment cannot be recommended for CPT code 95716 rendered on May 19, 2023 and May 20, 2023.

3. The requestor seeks additional reimbursement for CPT code 95724 rendered on May 19, 2023. The insurance carrier issued a payment in the amount of \$627.14 and the requestor seeks an additional payment in the amount of \$749.86.

28 TAC §134.203 applies to the disputed CPT code.

28 TAC §134.203 states in pertinent part, "(c) To determine the 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..."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = Maximum Allowable Reimbursement (MAR).

- The 2023 DWC Conversion Factor is 64.83
- The 2023 Medicare Conversion Factor is 33.8872
- Per the medical bills, the service was rendered in zip code 77042; Medicare Locality is "Houston."
- The Medicare Participating amount for CPT code 95724 at this locality is \$335.84.
- Using the above formula, the DWC finds the MAR is \$642.50.
- The respondent paid \$627.14.
- Additional reimbursement in the amount of \$15.36 is recommended.

The DWC finds that due to the reasons indicated above, the requestor is entitled to an additional payment in the amount of \$15.36 for CPT Code 95724.

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 DWC finds the requester has established that additional reimbursement for CPT code 95724 in the amount of \$15.36 is due.

Order

Under Texas Labor Code §§413.031 and 413.019, the DWC has determined the requestor is entitled to \$15.36 reimbursement for the disputed services. It is ordered that the respondent must remit to the requestor the amount of \$15.36, plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TC §134.120.

Authorized Signature

_____	_____	December 6, 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.