



## Medical Fee Dispute Resolution Findings and Decision General Information

**Requestor Name**

Sabrena Simmons, D.C.

**Respondent Name**

Technology Insurance Co., Inc.

**MFDR Tracking Number**

M4-23-3256-01

**Carrier's Austin Representative**

Box Number 17

**DWC Date Received**

August 23, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
06/12/2023	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

"Please see the EOBs included in with Requestor's DWC-60. The Carrier has paid a total of \$534.64 for the FCE per the fee guidelines. In conclusion, Requestor is not owed any additional reimbursement for the FCE as the proper amount was paid per the fee guidelines."

**Response Submitted by:** Downs Stanford, P.C.

## 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.
- P12 – WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
- 350 – BILL HAS BEEN IDENTIFIED AS A 'REQUEST FOR RECONSIDERATION OR APPEAL.

### Issues

1. Is the Insurance Carrier's reimbursement reduction reason(s) supported?
2. Is the Requestor entitled to additional reimbursement for CPT code 97750-FC?

### Findings

1. The insurance carrier reduced the disputed service, 97750-FC, with reduction code 281 (description indicated above).

CPT Code 97750-FC is defined as a functional capacity evaluation, to be reported and billed one unit per 15 minutes. On the disputed date of service, the requestor billed CPT code 97750-FC X 16 units.

28 TAC §134.225, which applies to functional capacity evaluations, 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. "

Review of submitted documentation finds that the requestor documented and billed a four hour (16 unit) functional capacity evaluation on the disputed date of service.

Review of submitted documentation does not find evidence to support that a benefit maximum has been met for this service.

Review of submitted documentation supports that the FCE rendered on the disputed date of service was referred by a division designated doctor and therefore "shall not count toward the three FCEs allowed for each compensable injury" in accordance with 28 TAC §134.225.

DWC finds that the insurance carrier's reimbursement reduction reason is not supported.

2. The insurance carrier issued a payment in the amount of \$534.64. The requestor seeks additional reimbursement of \$532.88 for 16 units of CPT code 97750-FC rendered on June 12, 2023.

The following Texas Administrative Code Rules apply to the reimbursement of 97750-FC:

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." 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 Therapy Code List and Dispositions found in the [Annual Therapy Update | CMS](#) and has a value of "5" on the MFSD. Therefore, the MPPR applies to the reimbursement of CPT code 97750.

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 16 units.

As described above, the multiple procedure payment reduction (MPPR) 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](http://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.
- Disputed service was rendered in zip code 77042, locality 18, Houston.
- The disputed date of service is June 12, 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.

DWC finds that additional reimbursement is due in the amount of \$262.80.

### 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 established that additional reimbursement is due in the amount of \$262.80.

## **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 Technology Insurance Co., Inc., must remit to Sabrena Simmons, 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 22, 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](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).