



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Midland Memorial Hospital

Respondent Name

Arch Insurance Co

MFDR Tracking Number

M4-23-3292-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

August 24, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 7-20, 2023	Occupational Therapy	\$189.24	\$0.00
Total		\$189.24	\$0.00

Requestor's Position

"Therapy bill remains underpaid after appeal."

Amount in Dispute: \$189.24

Respondent's Position

"Please find attached a request received and the document will be attached to the claim."

Supplemental Response Received September 20, 2023

"After researching, findings indicate the denial is correct for Date of Service 3/7/2023, for the reimbursement of the 97140 and the denial of 97166. It appears that the same provider on the same claim is billing 97165 and 97166. Both of these codes are for initial evaluation. Initial codes should only be billed once per claim. The provider should have billed 97168 – the code

that represents reevaluation.

Response Submitted by: Gallagher Bassett

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 §134.403](#) sets out the fee guidelines for outpatient physical therapy services.
3. [28 TAC §134.203](#) sets out the fee guidelines for professional medical services.

Denial Reasons

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

- 170 – Payment is denied when performed/billed by this type of provider.
- B16 – Payment adjusted because new patient qualifications were not met.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. What rule is applicable to reimbursement?
2. Is requestor entitled to additional reimbursement?

Findings

1. The requestor is seeking additional reimbursement for outpatient occupational therapy. The insurance carrier denied code 97166 and "new patient qualifications not met" and reduced code 97140 based on workers' compensation fee schedule.

Code 97166 - Occupational therapy evaluation, moderate complexity, requiring these components: An occupational profile and medical and therapy history, which includes an expanded review of medical and/or therapy records and additional review of physical, cognitive, or psychosocial history related to current functional performance; An assessment(s) that identifies 3-5 performance deficits (ie, relating to physical, cognitive, or psychosocial skills) that result in activity limitations and/or participation restrictions; and Clinical decision making of moderate analytic complexity, which includes an analysis of the occupational profile,

analysis of data from detailed assessment(s), and consideration of several treatment options. Patient may present with comorbidities that affect occupational performance. Minimal to moderate modification of tasks or assistance (eg, physical or verbal) with assessment(s) is necessary to enable patient to complete evaluation component. Typically, 45 minutes are spent face-to-face with the patient and/or family.

Review of the submitted "Outpatient Rehab Note" dated March 7, 2023, page 7 of 10 indicates, Total Billed: 40 minutes (Timed; 15, Untimed 25)

15 Timed: [97140] Manual Therapy

25 Untimed: [97166] OT Evaluation Moderate Complexity

The requestor billed code 97140 on the same date of service as the initial evaluation. The total time spent on the OT Evaluation was 25 minutes. The requirements of code 97166 are not met. No payment is recommended.

2. DWC 28 TAC §134.403(d) states in pertinent part, for coding, billing, reporting and The disputed therapy code is 97140-GO

This code has a status indicator of "A". Codes with this status indicator are not paid under OPPTS but rather are paid by MACS under a fee schedule or payment system other than OPPTS.

DWC Rule 28 TAC §134.203 (c)(1) states, "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..."

- The dates of service in dispute are March 7th and 20th.
- The DWC conversion factor for 2023 is \$64.83
- The Medicare conversion factor for 2023 is \$33.8872
- Review of Box 32 on the CMS-1500 finds that the services were rendered in zip code 79701; therefore, the Medicare locality is "Midland, Texas or Rest of Texas."

The following formula represents the calculation of the DWC MAR at §134.203 (c)(1) & (2).

$$(\text{DWC Conversion Factor} \div \text{Medicare Conversion Factor}) \times \text{Medicare Payment} = \text{MAR}$$

Applicable 28 TAC 134.203(h) states that the total reimbursement is the lesser of the maximum allowable reimbursement (MAR) and the billed amount.

Date of Service	Code	Units	Medicare Payment	DWC Conversion Factor divided by Medicare Conversion Factor or $64.83 \div 33.8872 = 1.91$	Billed Amount	Lesser of MAR and billed amount
March 7, 2023	97140	1	\$26.09	\$49.91	\$196.00	\$49.91
March 20, 2023	97140	1	\$26.09	\$49.91	\$196.00	\$49.91

Total	\$99.82
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3. The total allowable DWC fee guideline reimbursement is \$99.82. The insurance carrier paid \$102.32. No additional payment 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.

DWC finds the requester 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 reimbursement for the disputed services

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. 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.

