



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

Donald Gwartney, D.C.

Respondent Name

Indemnity Insurance Co. of North America

MFDR Tracking Number

M4-23-3338-01

Carrier's Austin Representative

Box Number 15

DWC Date Received

August 30, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
02/22/2023	97750-FC	\$252.52	\$0.00

Requestor's Position

"FCE's are billed in 15 minute increments and displayed as such on the units column of the HCFA. Each unit is billed accordingly based on Medical Fee Guideline conversion factors as established by DWC rule. **Amount in Dispute:** \$252.52

Respondent's Position

"This dispute involves a functional capacity examination with a date of service of February 22, 2023. The service was originally billed at \$1,014.88. The bill was reduced to \$762.36 and paid. The provider seeks an additional \$252.52. The carrier's position remains consistent with its EOB."

Response Submitted by: Flahive, Ogden & Latson

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 §134.210](#) applied to fee guidelines for division-specific services.
4. [28 TAC §134.225](#) sets the reimbursement guidelines for FCEs.

Adjustment Reasons

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

- 309 - THE CHARGE FOR THIS PROCEDURE EXCEEDS THE FEE SCHEDULE ALLOWANCE.
- 600 – ALLOWANCE BASED ON MAXIMUM NUMBER OF UNITS ALLOWED ACCORDING TO THE FEE SCHEDULE AND/OR SERVICE CODE DESCRIPTION OR REGULATIONS.
- 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.
- W3 – Bill is a reconsideration or appeal.
- 1014 - THE ATTACHED BILLING HAS BEEN RE-EVALUATED AT THE REQUEST OF THE PROVIDER. BASED ON THIS RE-EVALUATION, WE FIND OUR ORIGINAL REVIEW TO BE CORRECT. THEREFORE, NO ADDITIONAL ALLOWANCE APPEARS TO BE WARRANTED.
- 2005 - NO ADDITIONAL REIMBURSEMENT ALLOWED AFTER REVIEW OF APPEAL/RECONSIDERATION.

Issues

1. Is the insurance carrier's payment reduction reason supported?
2. Is the requestor entitled to additional reimbursement for CPT code 97750-FC rendered on February 22, 2023?

Findings

1. The requestor billed \$1,014.88 for 16 units of a functional capacity evaluation (FCE) rendered on date of service February 22, 2023, using CPT code 97750-FC. The insurance carrier issued a payment in the amount of \$762.36 and reduced the remaining charge based on denial reason codes 309, 600 and P12, defined above.

28 TAC §134.225 states: "The following applies to functional capacity evaluations (FCEs) ... FCEs shall be billed using CPT code 97750 with modifier 'FC.' FCEs shall be reimbursed in accordance with §134.203(c)(1) of this title."

Per 28 TAC §134.203 (b)(1), parties are required to apply Medicare payment policies, including its coding, billing, correct coding initiatives (CCI) edits, modifiers, and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules to workers' compensation coding, billing, reporting, and reimbursement of professional medical services.

28 TAC §§134.203 (a)(7) and 134.210 (a) state that specific provisions contained in the Texas Labor Code or division rules shall take precedence over any conflicting provision adopted or utilized by CMS in administering the Medicare program. However, no such conflict regarding billing or reimbursement was found that applies to a division-specific functional capacity evaluation. Therefore, Medicare reimbursement rules are applied to the examination in question.

Per [Medicare Claims Processing Manual \(cms.gov\)](https://www.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](#). Therefore, the MPPR applies to the reimbursement of this code.

DWC finds that the insurance carrier's reimbursement reduction reason is supported.

2. On the disputed date of service, the requestor billed CPT code 97550-FC X 16 units and seeks additional reimbursement in the amount of \$252.52.

As described above, the 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.

To determine the maximum allowable reimbursement (MAR) the following formula is used:
(DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = MAR.

- MPPR rates are published by carrier and locality.
- The disputed date of service is February 22, 2023.
- The disputed service was rendered in zip code 78415, locality 99, "Rest of TX".
- The Medicare participating amount for CPT code 97750 at this locality in 2023 is \$33.21 for the first unit, and \$24.36 for subsequent 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 for the first unit is \$63.53 and \$46.60 for each subsequent 15 units.

- The MAR for 16 units of 97750-FC in locality 99 in 2023 = \$762.58.
- The respondent paid \$762.36.
- No additional reimbursement is recommended.

DWC finds that no additional reimbursement is due.

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 that 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 service.

Authorized Signature

		September 29, 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 prefieres 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.