



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

GABRIEL JASSO, PHD

Respondent Name

ACE AMERICAN INSURANCE COMPANY

MFDR Tracking Number

M4-24-0140

Carrier's Austin Representative

Box Number 15

DWC Date Received

September 15, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 17, 2023	96137 x 15 units	\$303.17	\$303.17
Total		\$303.17	\$303.17

Requestor's Position

"DESIGNATED DOCTOR REFERRED TESTING INCORRECT REDUCITON."

Amount in Dispute: \$303.17

Respondent's Position

"96137 is reported for each additional 30 minutes (with primary code 96136 being billed for the first 30 minutes). MUE limits the time for each day for this code – 11 units per day or 2 hours and 45 minutes per day. These codes are used to report the physician or other qualified healthcare professional's time spent in administrating and scoring psychological or neuropsychological tests. A minimum of 31 minutes must be provided before assigning these codes. For codes 96136–96139, time should not be included when determining evaluation services such as integration of patient data or the interpretation of test results as this time is already included in services reported by 96130–96133. No documentation attached to support CMS' overriding of MUE for the Respondent for non-WC related billing. 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 \(TLC\) §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 §134.250](#) sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.

Denial Reasons

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

- P12 – Workers' compensation state fee schedule.
- P13 – Payment reduced/denied based on state WC regs/policies.
- RAI – Medically Unlikely Edit; DOS exceeds MUE value.
- W3 – Appeal/reconsideration.
- Note: DOS exceeds MUE Value 11/These codes are used to report the physician or other qualified healthcare professional's time spent in administrating and scoring psychological or neuropsychological tests (interpretation and report)[sic].
- Note: While the DD is allowed to refer for additional testing needed to determine MMI/IR, the rule does not say that all rules are ignored for the testing provider. MUE rules applied to line 5. There was no preauth denial. Finally, 19 hours in one day – not documented. MUE indicate a limit of 5.5 hours (11 units) in addition to the base code of 30 min.

Issues

1. What is the service in dispute?
2. Does Medicare's medically unlikely edits (MUE) apply to the disputed service?
3. What rule applies to the reimbursement for CPT Code 96137?
4. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor seeks additional reimbursement for CPT Code 96137 rendered on March 17, 2023. A review of the submitted documentation finds that the requestor billed CPT codes 90791, 96130, 96131, 96136, and 96137 on March 17, 2023. The insurance carrier issued a payment for the amount billed for CPT Codes 90791, 96130, 96131, and 96136. A payment in the amount of \$839.08 for CPT code 96137 was issued and denied the remaining charge of \$303.17 with denial reduction codes indicated above.
2. The disputed CPT code 96137 x 15 units is subject to the following:

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 96137 is defined as, "Psychological or neuropsychological test administration and scoring by physician or other qualified health care professional, two or more tests, any method; each additional 30 minutes (List separately in addition to code for primary procedure)."

Based on Medicare's Medically Unlikely Edits (MUE), the insurance provider denied the disputed service. MUEs establishes the quantity of units for a given service that a provider would typically report for a single patient. MUE edits were created by Medicare to identify potential medically unnecessary services.

While applicable DWC Rule 28 TAC §134.203 is used by the DWC to adopt Medicare payment policies, paragraph (a)(7) of that rule specifies that certain provisions of the Division of Workers' Compensation rules will take precedence over any conflicting provisions adopted in the Medicare program.

The Medicare MUE payment policy is directly at conflict with DWC Rule 28 TAC §134.600, which sets out the processes for preauthorization and retrospective review of professional services such as those in dispute, as well as Texas Labor Code §413.014, which requires that all determinations of medical necessity must be determined prospectively or retrospectively through utilization review.

The DWC concludes that Labor Code §413.014 and DWC Rule 28 TAC §134.600 take precedence over Medicare MUE's; therefore, the respondent's denial reason is not supported.

3. 28 TAC §134.203 sets out the guidelines for the reimbursement of CPT Codes 96137 rendered on March 17, 2023. A review of the documentation supports that the requestor billed a total of 15 units x 30 minutes/unit = 7.5 hours for CPT Code 96137. As a result, reimbursement for the additional units is recommended.

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 2022 Medicare Conversion Factor is 33.8872
- Per the medical bills, the services were rendered in zip code 75247; therefore, the Medicare locality is "Dallas."
- The Medicare Participating amount for CPT code 96137 at this locality is \$39.87
- Using the formula above, the price/unit is \$76.28 x 15 units = MAR of \$1,144.14.
- The respondent paid \$839.08; \$1144.14 - \$839.08 = \$305.06.
- The requestor seeks \$303.17; therefore, this amount is recommended.

The DWC finds that the requestor is therefore entitled to additional reimbursement of \$303.17 for CPT Code 96137. This amount is recommended.

4. A review of the submitted documentation finds that the requestor is entitled to an additional payment of \$303.17. Therefore, this amount 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.

The DWC finds the requestor has established that additional reimbursement of \$303.17 is due.

Order

Under Texas Labor Code §§413.031 and 413.019, the DWC has determined the requestor is entitled to reimbursement of \$303.17 for the disputed services. It is ordered that the respondent must remit to the requestor the amount of \$303.17, plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TC §134.120.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

December 4, 2023

Date

Your Right to Appeal

Either party to this medical fee dispute has a right to seek a 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.