TDI Division of Workers' Compensation
PO Box 12050 | Austin, TX 78711 | 800-252-7031 | tdi.texas.gov/wc

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Crescent Medical Center

Respondent Name
American Zurich Insurance Co

MFDR Tracking Number
M4-24-0196-01

Carrier's Austin Representative
Box Number 19

DWC Date Received
September 26, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
July 18, 2023	REV 0278/IMPLANTS	$3448.37	$0.00
July 18, 2023	27447	$24.42	$0.00
July 18, 2023	ALL OTHER	$0.00	$0.00
	Total	$3,472.79	$0.00

Requestor's Position

"We are requesting the MAR value of $28,829.91. Please pay the additional $3,472.79."

Supplemental response submitted November 17, 2023

..."There is still an underpayment of $2947.46 with the additional payment."

Amount in Dispute: $3,472.79

Respondent's Position

"We are attaching a copy of the carrier's EOBs dated August 22, 2023 and September 18, 2023. The initial EOB recommended payment of $25,357.12. The second EOB recommended no addition payment. However, the carrier has reconsidered its position and is paying an additional $525.33. We will supplement our response when that additional EOB is printed and the check is

issued."

Supplemental response submitted October 31, 2023

"Carrier has previously responded to this dispute on October 17, 2023. As noted in the carrier's initial response, the carrier has reprocessed the provider's medical bill. We are attaching a copy of the two EOBs. The first one is dated October 17, 2023, which recommends additional payment of $525.33. The second EOB is dated October 19, 2023, which provides a payment of interest. The check in the amount of $525.33 was issued on October 19, 2023. The check in payment of interest was issued on October 24, 2023."

Response submitted by Flahive, Ogden and 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 TAC §133.307 sets out the procedures for resolving medical fee disputes.

2. 28 TAC §134.403 sets out the fee guidelines for outpatient hospital services.

Denial Reasons

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

- 45 – Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement.
- 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.
- P13 – Payment reduced or denied based on Workers' Compensation Jurisdictional Regulations or payment policies.
- W3 – In accordance with TDI-DWC Rule 133.804, this bill has been identified as a request for reconsideration or appeal.
- 18 – Exact duplicate claim/service.
- 252 – An attachment/other documentation is required to adjudicate this claim/service.

Issues

1. What rule is applicable to reimbursement?

2. How is the reimbursement for implants calculated?

3. Is the requester entitled to additional reimbursement?

Findings

1. The requestor is seeking additional reimbursement of implants and surgical procedure rendered on July 18, 2023. The insurance carrier reduced the payment based on workers' compensation fee scheduled and contracted/legislated fee. Review of the submitted documentation found insufficient evidence to support a contract between the two parties. The Maximum Allowable Reimbursement (MAR) calculation is found in the following paragraphs.

   DWC Rule 28 TAC §134.403 (d) requires Texas workers' compensation system participants when coding, billing, reporting and reimbursement to apply Medicare payment policies in effect on the date of service.

   The Medicare payment policy applicable to the services in dispute is found at www.cms.gov, Claims processing Manual, Chapter 4, Section 10.1.1. Specifically, Payment Status Indicators and Ambulatory Payment Category (APC).

   DWC Rule 28 TAC §134.403 (e) states in pertinent part, regardless of billed amount, when no specific fee schedule or contract reimbursement shall be the maximum allowable reimbursement (MAR) amount under subsection (f) of this section including any applicable outlier payment amounts and reimbursement for implantables.

   DWC Rule 28 TAC §134.403 (f) states in pertinent part the reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register*.

   The Medicare facility specific amount is calculated when the APC payment rate is multiplied by 60% to determine the labor portion. This amount is multiplied by the facility wage index for the date of service. The non-labor amount is determined when the APC payment rate is multiplied by 40%. The sum of the labor portion multiplied by the facility wage index and the non-labor portion determines the Medicare specific amount. Review of the submitted medical bill and the applicable fee guidelines referenced above is shown below.

   - Procedure code 27447 has status indicator J1, for procedures paid at a comprehensive rate.

     This code is assigned APC 5115. The OPPS Addendum A rate is $13,048.08 multiplied by 60% for an unadjusted labor amount of $7,828.85, in turn multiplied by facility wage index 0.9528 for an adjusted labor amount of $7,459.33.

The non-labor portion is 40% of the APC rate, or $5,219.23.

The sum of the labor and non-labor portions is $12,678.56.

The Medicare facility specific amount is $12,678.56 multiplied by 130% for a MAR of $16,482.13. Review of the explanation of benefits dated August 22, 2022 indicates this amount was allowed and paid. No additional payment is recommended.

2. DWC Rule 28 TAC §134.403(g) states Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or $1,000 per billed item add-on, whichever is less, but not to exceed $2,000 in add-on's per admission.

   Review of the submitted medical bill and itemized statement indicates the following items were billed under Revenue Code 278 "implants".

   - "Femoral SZ 5 right non porous" as identified in the itemized statement with a cost per unit of $2,075.00. The invoice submitted by the requestor indicates "BKS PS Femoral Nonporous RT Size 6." This invoice does not support the cost of this item.

   - "Tibial SZ 6 nonporous tray" as identified in the itemized statement and labeled on the invoice as "BKS Tibial Tray Nonporous Size 6" with a cost per unit of $1,175.00. As shown in the above rule rebates and discounts apply to the cost. Invoice 02726 dated July 18, 2023 indicates a discount was given of $5.500.00. This discount divided by the four items listed would mean each item was discounted $1,375.00. The reported cost was $2,550.00 minus the discount of $1,375.00 equals discounted cost of $1,175.00.

   - "Patella 38mm" as identified in the itemized statement and labeled on the invoice as "BKS E-Vitalize Patella 38mm" with a discounted cost per unit of $575.00;

   - "Tibial insert 12mm SZ 6 XLPE" as identified in the itemized statement and labeled on the invoice as "BKS E-Vitalize PS Tibial Insert 6 12mm" with a discounted cost per unit of $1,675.00;

   - "Cement Simplex P" as identified in the itemized statement and labeled on the invoice as "Simplex" for a 10 pack has a unit priced of $1,015.25 only one was billed and supported by the operative report. The supported cost for one unit is $101.53.

   The total net invoice amount (exclusive of rebates and discounts) is $3,526.53. The total add-on amount of 10% or $1,000 per billed item add-on, whichever is less, but not to exceed $2,000 in add-on's per admission is $352.65. The total recommended reimbursement amount for the implantable items is $3,879.18.

3. The total recommended reimbursement for the disputed services is $20,361.31. The insurance carrier paid $25,882.45. Additional payment is not 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 additional reimbursement for the disputed services.

Authorized Signature

		January 4, 2024
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 electronico CompConnection@tdi.texas.gov.