



## Medical Fee Dispute Resolution Findings and Decision General Information

**Requestor Name**

Nicholas Spruell, D.C.

**Respondent Name**

Technology Insurance Co., Inc.

**MFDR Tracking Number**

M4-24-0314-01

**Carrier's Austin Representative**

Box Number 17

**DWC Date Received**

October 6, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 28, 2023	97750	\$529.28	\$259.36

### 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:** \$529.28

### Respondent's Position

"Please see the EOBs included in with Requestor's DWC-60. The Carrier has paid a total of \$531.04 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:

- P12 – WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
- 281 – FUNCTIONAL CAPACITY EVALUATIONS ARE ALLOWED A MAXIMUM OF FOUR HOURS FOR AN INITIAL OR THREE TIMES FOR EACH INJURED WORKER.
- W3 – IN ACCORDANCE WITH THE TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.

### Issues

1. What rules apply to the disputed service?
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 reason code P12 which refers to DWC jurisdictional fee schedule and reason code 281 which refers to FCE benefit limitations (defined above).

CPT Code 97750-FC is defined as a functional capacity evaluation.

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

The applicable fee guideline for FCEs is found at 28 TAC §134.225, which 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."

A review of the submitted documentation finds that the service in dispute is a division ordered test referred by a designated doctor. Therefore, this disputed FCE does not count toward the FCE benefit limitation.

28 TAC §134.203(b)(1) which applies to the reimbursement of the disputed service, 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.”

Medicare Claims Processing Manual Chapter 5, 10.7-effective June 6, 2016, titled Multiple Procedure Payment Reductions (MPPR) for Outpatient Rehabilitation Services, states in pertinent part:

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.

To determine which services will receive the MPPR, contractors shall rank services according to the applicable PE relative value units (RVU) and price the service with the highest PE RVU at 100% and apply the appropriate MPPR to the remaining services. When the highest PE RVU applies to more than one of the identified services, contractors shall additionally sort and rank these services according to highest total fee schedule amount, and price the service with the highest total fee schedule amount at 100% and apply the appropriate MPPR to the remaining services.

On the disputed date of service, the requestor documented and billed for a four-hour (16 units) FCE. DWC finds that the Medicare MPPR discounting rule applies to the disputed service.

2. The insurance carrier issued a payment in the amount of \$531.04 for the disputed service. The requestor is seeking an additional reimbursement of \$529.28 for 16 units of CPT code 97750-FC rendered on June 28, 2023.

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 in Finding #1 above, the multiple procedure discounting 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 75247, locality 11, Dallas.
- The disputed date of service is June 28, 2023.
- The Medicare participating amount for CPT code 97750 in 2023 at this locality is \$34.70 for the first unit, and \$25.23 for each subsequent unit.
- 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 \$790.40.
- The respondent paid \$531.04.
- Additional reimbursement in the amount of \$259.36 is recommended.

DWC finds that additional reimbursement in the amount of \$259.36 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 the requestor has established that additional reimbursement in the amount of \$259.36 is due.

## **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 Nicholas Spruell, D.C. \$259.36 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

\_\_\_\_\_  
November 3, 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).