



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Marcus Hayes, D.C.

Respondent Name

Indemnity Insurance Co. of North America

MFDR Tracking Number

M4-24-0373-01

Carrier's Austin Representative

Box Number 15

DWC Date Received

October 12, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
August 30, 2023	97750-FC, 8 units	\$531.52	\$404.98

Requestor's Position

"First, no EOB nor payment has ever been received on this patient... The 08/30/2023 FCE was [injured employee name] second or interim FCE. Therefore, unless the carrier can provide proof of an endorsed check by me that was cleared by my bank, AI&FATC requests Gallagher Bassett remit the balance due of \$531.52 for said procedure performed on said patient on said date."

Amount in Dispute: \$531.52

Respondent's Position

The Austin carrier representative for Indemnity Insurance Co. of North America is Downs & Stanford. The representative was notified of this medical fee dispute on October 17, 2023. Per 28 Texas Administrative Code §133.307 (d)(1), if the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the available information. As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

Response Submitted by: N/A

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 guidelines for professional medical services.
3. [28 TAC §133.210](#) applied to fee guidelines for division-specific services.
4. [28 TAC §134.225](#) sets out the fee guidelines for functional capacity evaluations.

Denial Reasons

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

- B13 – Previously paid. Payment for this claim/service may have been provided in a previous payment.
- 247 – A payment or denial has already been recommended for this service.

Issues

1. Is the insurance carrier's denial reason supported?
2. Is the requestor, Dr. Hayes, entitled to reimbursement for the disputed service of a functional capacity evaluation rendered on August 30, 2023?

Findings

1. A review of the explanation of benefits (EOB) documents submitted finds that the insurance carrier denied payment for the disputed service based on the reason that the service has been previously paid or denied. No other explanation of denial was submitted to DWC.

A review of the submitted documentation finds no evidence that the service has been previously paid. Therefore, DWC finds that the insurance carrier's denial reason is not supported.

2. Dr. Hayes is seeking reimbursement for a functional capacity evaluation performed on August 30, 2023. Because the insurance carrier's denial reason is not supported and the disputed service has not been reimbursed, DWC finds that the requestor is entitled to reimbursement.

The functional capacity examination is identified as a division-specific service with billing code 97750-FC.

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 \(cms.gov\)](#), 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 2023 Therapy Code List and Dispositions found in the [Annual Therapy Update | CMS](#). Therefore, the MPPR applies to the reimbursement of this code.

On the disputed date of service, the requestor billed CPT code 97750-FC X 8 units.

As described above, the multiple procedure discounting rule (MPPR) applies to the disputed service.

The MPPR Rate File that contains the payments for 2023 services is found at <https://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.
- The disputed date of service is August 30, 2023.
- The disputed service was rendered in zip code 77581, locality 09.
- The Medicare participating amount for CPT code 97750 at this locality in 2023 is \$34.73 for the first unit, and \$25.28 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 is \$404.98.
- The respondent paid \$0.00.
- Reimbursement in the amount of \$404.98 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 requestor has established that reimbursement is due in the amount of \$404.98.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed services. It is ordered that Indemnity Insurance Co. of North America must remit to Marcus Hayes, D.C. \$404.98 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

January 4, 2024

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 prefiera 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.