

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

North Central Surgical Hospital

Respondent Name

Accident Fund General Insurance Co

MFDR Tracking Number

M4-24-0621-01

Carrier's Austin Representative

Box Number 06

DWC Date Received

November 13, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
February 10, 2023	131-250	\$403.83	\$0.00
February 10, 2023	131-258	\$18.46	\$0.00
February 10, 2023	131-270	\$45.78	\$0.00
February 10, 2023	131-272	\$1823.37	\$0.00
February 10, 2023	C1713	\$70.51	\$0.00
February 10, 2023	28715	\$4558.11	\$4558.11
February 10, 2023	C9290	\$787.52	\$0.00
February 10, 2023	131-710	\$1025.00	\$0.00
February 10, 2023	97161	\$0.00	\$0.00
February 10, 2023	J0690	\$78.88	\$0.00
February 10, 2023	J1100	\$3.31	\$0.00
February 10, 2023	J2001	\$4.00	\$0.00
February 10, 2023	J2405	\$2.49	\$0.00
February 10, 2023	J3010	\$4.30	\$0.00
	Total	\$8,825.56	\$4558.11

Requestor's Position

The requestor did not submit a position statement with this request for Medical Fee Dispute

Resolution (MFDR) but did submit a document titled "Reconsideration" dated October 31, 2023. This document states, "According to TX workers compensation fee schedule the expected reimbursement for DOS 2/10/2023 is \$24,008.40. Please note that implants should be reimbursed at manual cost plus 10%. Also, carriers are to pay fee schedule or billed charges; not both. Previous payment received totaled \$15,812.84."

Amount in Dispute: \$8,825.56

Respondent's Position

"After review of the issues, Accident Fund's audit company determined that under DWC Rule 134.403 if implants are reimbursed, then the facility-specific reimbursement amount and any applicable outlier amount shall be multiplied by 130%. Since implants were separately paid for, the APC was adjusted to offset the cost of the implants. Therefore, no additional payment is due."

Response submitted by Stone Loughlin & Swanson, LLP

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:

- 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.
- 16 – Claim/service lacks information which is needed for adjudication.

Issues

1. Did the requestor support cost of implants?
2. What rule is applicable to reimbursement?

3. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor is seeking additional payment of outpatient hospital charges for date of service February 10, 2023.

Review of the original medical bill did not indicate a separate request was made for implant reimbursement however at the time of reconsideration/MFDR, a request was made.

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.

(1) A facility or surgical implant provider billing separately for an implantable shall include with the billing a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge."

(2) A carrier may use the audit process under §133.230 of this title (relating to Insurance Carrier Audit of a Medical Bill) to seek verification that the amount certified under paragraph (1) of this subsection properly reflects the requirements of this subsection. Such verification may also take place in the Medical Dispute Resolution process under §133.307 of this title (relating to MDR of Fee Dispute), if that process is properly requested, notwithstanding 133.307(d)(2)(B) of this title.

Based on review of the submitted documentation, DWC finds the requestor used the MFDR process to request separate reimbursement of the implants used during the outpatient procedure. However, the submitted documentation did not include the required "Billing Certification." No additional payment is recommended for the implants or Code C1713.

2. The remaining charges in dispute are considered as follows. 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 28715 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.

- Procedure code 97161 is packaged into primary J1 procedure.
- Procedure code C9290 has status indicator N reimbursement is included with payment for the primary services.
- Procedure code J0690 has status indicator N reimbursement is included with payment for the primary services.
- Procedure code J1100 has status indicator N reimbursement is included with payment for the primary services.
- Procedure code J2001 has status indicator N reimbursement is included with payment for the primary services.
- Procedure code J2405 has status indicator N reimbursement is included with payment for the primary services.
- Procedure code J3010 has status indicator N reimbursement is included with payment for the primary services.

3. The total recommended reimbursement for the disputed services is \$16,482.13. The insurance carrier paid \$7,482.89. The requestor is seeking additional reimbursement of \$4,558.11. 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.

DWC finds the requester has established that additional reimbursement 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 services. It is ordered that Accident Fund General Insurance Co must remit to North Central Surgical Hospital \$4,558.11 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

December 11, 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. 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.