



**Texas Department of Insurance**

**Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645  
512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

**GENERAL INFORMATION**

**Requestor Name and Address**

DR PETER E GRAYS  
1909 CENTRAL DR STE 202  
BEDFORD TX 76021-5846

**Respondent Name**

LM INSURANCE CORP.

**Carrier's Austin Representative Box**

Box Number 1

**MFDR Tracking Number**

M4-12-2316-02

**MFDR Date Received**

March 6, 2012

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Procedure codes 55520 (Spermatic Cord Lipomas) occur in conjunction with the forced trauma of a Hernia pushing through the abdominal wall, and it is not noticeable until a surgical incision is opened and viewed on the inside. . . . Since this was performed bilaterally . . . this warrants for separate reimbursement for the Repair of the Right Incarcerated Inguinal Hernia."

**Amount in Dispute:** \$1,674.94

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "We base our payments on the Texas Fee Guidelines and the Texas Department of Insurance / Division of Workers' compensation Commission's Act's and Rules. . . . The amount paid is the Network Discount this provider received with Coventry Healthcare."

**Response Submitted by:** Liberty Mutual Insurance, 303 Jesses Jewel Parkway SE, Suite 500, Gainesville, Georgia 30501

**SUMMARY OF FINDINGS**

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
May 31, 2011	Professional Medical Services	\$1,674.94	\$891.35

**FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203 sets out the fee guideline for professional medical services.
3. Texas Labor Code §413.011 sets forth general provisions related to reimbursement policies and guidelines.

4. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - Z710 – [No description of this payment reduction reason code was found with the submitted information.]
  - PA – [No description of this payment reduction reason code was found with the submitted information.]
  - P303 – [No description of this payment reduction reason code was found with the submitted information.]
  - Z001 – [No description of this payment reduction reason code was found with the submitted information.]
  - U899 – [No description of this payment reduction reason code was found with the submitted information.]
  - U008 – [No description of this payment reduction reason code was found with the submitted information.]
  - 45 – [No description of this payment reduction reason code was found with the submitted information.]
  - 24 – [No description of this payment reduction reason code was found with the submitted information.]
  - W1 – [No description of this payment reduction reason code was found with the submitted information.]
  - B15 – [No description of this payment reduction reason code was found with the submitted information.]

### **Issues**

1. Are the disputed services subject to a contractual fee agreement?
2. What is the applicable rule for reimbursement?
3. Is the requestor entitled to additional payment?

### **Findings**

1. The insurance carrier's response states that "We base our payments on the Texas Fee Guidelines and the Texas Department of Insurance / Division of Workers' compensation Commission's Act's and Rules. . . . The amount paid is the Network Discount this provider received with Coventry Healthcare." Per Labor Code §413.011(d-6), the provisions that authorized insurance carriers to contract with health care providers for fees that are different from those specified by the Division's fee guidelines expired on January 1, 2011. No documentation was found to support that the disputed services are subject to a negotiated or contracted amount that complies with Labor Code §413.011. No information was submitted to support that the services in dispute are subject to a contractual agreement related to a workers' compensation health care network that had been certified under Insurance Code Chapter 1305. The disputed services will therefore be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. This dispute relates to professional medical services with reimbursement subject to the provisions of 28 Texas Administrative Code §134.203, effective March 1, 2008, 33 *Texas Register* 364, which requires that, to determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications" as described in the rule. For coding, billing, reporting, and reimbursement of professional medical services, "Texas workers' compensation system participants shall 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." It further requires that "Whenever a component of the Medicare program is revised, use of the revised component shall be required for compliance with Division rules, decisions, and orders for professional services rendered on or after the effective date, or after the effective date or the adoption date of the revised component, whichever is later."
3. Reimbursement is calculated as follows:
  - Per Medicare policy, procedure code 49507-RT, service date May 31, 2011, may not be reported twice on the same claim. The requestor has also billed the same procedure code below with modifier 50 appended indicating a bilateral procedure. Payment for both surgeries will be considered in the reimbursement of that code below. This procedure code may not be separately paid. Reimbursement is not recommended.
  - Procedure code 49507-50LT, service date May 31, 2011, represents a professional service with reimbursement determined per §134.203(c). The provider billed this code with modifier 50, indicating a bilateral procedure. Review of the submitted documentation finds that the modifier is supported; accordingly, payment for this procedure is adjusted by 150 percent of the fee schedule amount for a single code. The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 10.05 multiplied by the geographic practice cost index (GPCI) for work of 1.009 is 10.14045. The practice expense (PE) RVU of 6.19 multiplied by the PE GPCI of 1.001 is 6.19619. The malpractice RVU of 2.12 multiplied by the malpractice GPCI of 0.969 is 2.05428. The sum of 18.39092 is multiplied by the Division conversion factor of \$68.47 for a MAR of \$1,259.23. This amount is multiplied by the 150% bilateral procedure adjustment for a total of \$1,888.85.

- Per Medicare policy, procedure codes 55520-59RT and 55520-59LT, service date May 31, 2011, may not be reported with procedure code 49507 billed on this same claim. As stated above, "Texas workers' compensation system participants shall 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." On April 1, 2011, a CCI edit became effective requiring that providers not separately report 55520 when 49507 is also performed. A modifier is allowed in order to differentiate between the services provided. Separate payment for the services billed may be justified if a modifier is used appropriately. Although the provider billed the service with modifier 59, review of the submitted documentation finds that the modifier is not supported. The requestor submitted a comment from the American Medical Association (AMA), dated September, 2000, that a modifier would be appropriate to append to code 55520 "to indicate that the excision of the spermatic cord lesion is a separate, distinct procedure from the inguinal hernia repair performed at the same surgical session. However, the AMA comment predates the CCI edit and is superseded by the 2011 change in Medicare payment policy. Per Medicare payment policy regarding modifier -59, "The code descriptors of the two codes of a code pair edit usually represent different procedures or surgeries. The edit indicates that the two procedures/surgeries cannot be reported together if performed at the same anatomic site and same patient encounter. The provider cannot use modifier -59 for such an edit based on the two codes being different procedures/ surgeries." Review of the submitted documentation finds that the procedures were performed (bilaterally) at the same anatomic sites during the same encounter. Modifier -59 is therefore not supported. Separate payment is not recommended.

The total allowable reimbursement for the services in dispute is \$1,888.85. This amount less the amount previously paid by the insurance carrier of \$997.50 leaves an amount due to the requestor of \$891.35. This amount is recommended.

**Conclusion**

For the reasons stated above, the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$891.35.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$891.35, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

February 26, 2014  
Date

**YOUR RIGHT TO APPEAL**

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**