



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

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

GABRIEL JASSO PH.D

Respondent Name

UNITED STATES FIRE INSURANCE CO

MFDR Tracking Number

M4-17-1323-01

Carrier's Austin Representative

Box Number 53

MFDR Date Received

JANUARY 9, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The carrier has not paid this claim in accordance and compliance with TDI-DWC Rule 133 and 134."

Amount in Dispute: \$995.24

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Pursuant to division rule § 133.307(c)(1)(A) a request for MFDR that does not involve issued identified in subparagraph (B) of said paragraph shall be filed no later than one year after the date(s) of service in dispute...In this matter, the requester failed to file his request within one year from the date of service, and his request should be dismissed."

Response Submitted by: Hoffman Kelley Lopez, LLP

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|------------------|--|-------------------|------------|
| January 8, 2016 | CPT Code 90791 (X2) Psychiatric Diagnostic Evaluation | \$291.00 | \$212.18 |
| | CPT Code 96101 (X8) Psychological Testing | \$704.24 | \$0.00 |
| TOTAL | | \$995.24 | \$212.18 |

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

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.203, effective March 1, 2008, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers' compensation system.
- 28 Texas Administrative Code §102.3 sets out the procedure to compute time in the Texas workers' compensation system.

4. Neither party to the dispute submitted any explanation of benefits to support the issues in the dispute.

Issues

1. Was the dispute submitted timely to the division per 28 Texas Administrative Code §133.307?
2. Is the requestor entitled to reimbursement for CPT code 90791 (X2)?
3. Does the documentation support eight (8) hours of testing, code 96101?

Findings

1. The respondent states “Pursuant to division rule § 133.307(c)(1)(A) a request for MFDR that does not involve issues identified in subparagraph (B) of said paragraph shall be filed no later than one year after the date(s) of service in dispute...In this matter, the requester failed to file his request within one year from the date of service, and his request should be dismissed.”

28 Texas Administrative Code §133.307(c)(1) states: "Timeliness. A requestor shall timely file the request with the division's MFDR Section or waive the right to MFDR. The division shall deem a request to be filed on the date the MFDR Section receives the request. A decision by the MFDR Section that a request was not timely filed is not a dismissal and may be appealed pursuant to subsection (g) of this section. (A) A request for MFDR that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute."

The date of the services in dispute is January 9, 2016.

The request for medical dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) section on January 9, 2016.

28 Texas Administrative Code §102.3(a) states “Due dates and time periods under this Act shall be computed as follows: (3) unless otherwise specified, if the last day of any period is not a working day, the period is extended to include the next day that is a working day. (b) A working day is any day, Monday-Friday...”

A review of the calendar for January 2017 finds that January 8 fell on a Sunday. Per 28 Texas Administrative Code §102.3, Sunday is not a working day; therefore, the period is extended to Monday the 9th.

The Division concludes that the requestor timely filed this dispute with the Division’s MFDR Section.

2. A review of the submitted documentation finds that neither party submitted any explanation of benefits to support the issues in dispute; therefore, the disputed services will be reviewed per applicable rules and fee guidelines.

28 Texas Administrative Code §134.203(a)(5) states “Medicare payment policies” when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare.”

28 Texas Administrative Code §134.203 (b)(1) 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.”

CPT code 90791 is defined as “Psychiatric diagnostic evaluation.”

A review of the submitted billing and medical records finds that the requestor billed for two units of code 90791. CPT code 90791 is not defined as a timed procedure; therefore, the service is considered per session and only one unit should be billed. No documentation was submitted to support a separate session with another individual was held except with claimant. Based on the code descriptor and the submitted report, one unit is recommended for reimbursement.

Per 28 Texas Administrative Code §134.203(c)(1)(2), “To determine the 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. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2016 DWC conversion factor for this service 56.82.

The Medicare Conversion Factor is 35.8043.

Review of Box 32 on the CMS-1500 the services were rendered in zip code 75230, which is located in Dallas, Texas; therefore the Medicare carrier locality is "Dallas, Texas".

The Medicare participating amount for code 90791 is \$133.70.

Using the above formula, the Division finds the MAR is \$212.18. The respondent paid \$0.00. As a result, reimbursement is recommended.

3. On the disputed date of service, the requestor also billed eight (8) units of CPT code 96101.

CPT code 96101 is defined as "Psychological testing (includes psychodiagnostic assessment of emotionality, intellectual abilities, personality and psychopathology, eg, MMPI, Rorschach, WAIS), per hour of the psychologist's or physician's time, both face-to-face time administering tests to the patient and time interpreting these test results and preparing the report."

CPT code 96101 is a timed procedure; therefore, documentation of time spent performing the test is required. A review of the submitted report does not document a start or end time, or a time spent administering each test, or time interpreting the results or preparing the report. The division finds the requestor has not supported the eight hours billed; therefore, reimbursement is not recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$212.18.

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 \$212.18 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

03/08/2017
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request 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 §141.1(d).

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