



# TEXAS DEPARTMENT OF INSURANCE

## Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

**Requestor Name**

STONE OAK SURGERY CENTER

**Respondent Name**

LIBERTY MUTUAL FIRE INSURANCE

**MFDR Tracking Number**

M4-17-2998-01

**Carrier's Austin Representative**

Box Number 01

**MFDR Date Received**

JUNE 13, 2017

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "We seek to have this claim paid as per the TX W/C fee schedule however even after 2 appeals Liberty Mutual fails to pay properly we are seeking additional payment of \$29,437.44."

**Amount in Dispute:** \$29,437.44

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Bill is now being reimbursed appropriately."

**Response Submitted by:** Liberty Mutual Insurance Co.

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 30, 2017	Ambulatory Surgical Care Services CPT Code 63685	\$29,437.44	\$0.00

#### FINDINGS AND DECISION

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

#### **Background**

- 28 Texas Administrative Code §133.307, effective May 31, 2012 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.402, effective August 31, 2008, sets out the reimbursement guidelines for ambulatory surgical care services.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - B13-The charge for this procedure exceeds the fee schedule allowance.

## Issues

Is the requestor entitled to additional reimbursement for ASC services for CPT code 63685?

## Findings

1. The fee guideline for ASC services is found in 28 Texas Administrative Code §134.402.
2. 28 Texas Administrative Code §134.402(b) (6) states, "Definitions for words and terms, when used in this section, shall have the following meanings, unless clearly indicated otherwise. "Medicare payment policy" means 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."
3. 28 Texas Administrative Code §134.402(d) states "For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section, including the following paragraphs."
4. CPT code 63685 is described as "Insertion or replacement of spinal neurostimulator pulse generator or receiver, direct or inductive coupling."

Per ADDENDUM AA, CPT code 63685 is a device intensive procedure and is exempt from the multiple procedure rule discounting.

5. Division rule at 28 TAC §134.402(d) states " For coding, billing, and reporting, of facility services covered in this rule, Texas workers' compensation system participants shall apply the Medicare payment policies in effect on the date a service is provided with any additions or exceptions specified in this section."
6. The requestor did not request separate reimbursement for the implantables; therefore, Division rule at 28 TAC §134.402(f)(2)(A)(i)(ii) applies to this dispute.

Division rule at 28 TAC §134.402(f)(2)(A)(i)(ii) states "The reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the *Federal Register*. Reimbursement shall be based on the fully implemented payment amount as in ADDENDUM AA, ASC COVERED SURGICAL PROCEDURES FOR CY 2008, published in the November 27, 2007 publication of the *Federal Register*, or its successor. The following minimal modifications apply: (2) Reimbursement for device intensive procedures shall be: (A) the sum of: (i) the ASC device portion; and (ii) the ASC service portion multiplied by 235 percent."

7. Division rule at 28 TAC §134.402(f)(2)(A)(i)(ii) reimbursement for device intensive procedure code 63685 is a two step process:

Step 1 calculating the device portion of the procedure:

The national reimbursement is found in the Addendum B for National Hospital Outpatient Prospective Payment System (OPPS) code 63685 for CY 2017 = \$27,047.11.

This number multiplied by the device dependent APC offset percentage for National Hospital OPPS reimbursement of 82.60% = \$22,340.91.

Step 2 calculating the service portion of the procedure:

Per Addendum AA, the Medicare fully implemented ASC reimbursement rate for code 63685 is \$23,148.41.

Per the Medicare fully implemented ASC reimbursement rate of \$23,148.41 is divided by 2 = \$11,574.20.

This number multiplied by the City Wage Index for San Antonio, TX \$11,574.20 X 0.8596 = \$9,949.18.

The sum of these two is the geographically adjusted Medicare ASC reimbursement = \$21,523.38.

The service portion is found by taking the national adjusted rate of \$21,523.38 minus the device portion of \$27,047.11 = -\$5,523.73.

Multiply the geographical adjusted ASC reimbursement by the DWC payment adjustment  $\$-5,523.73 \times 235\% = -\$12,980.76$ .

The MAR is determined by adding the sum of the reimbursement for the device portion of  $\$22,340.91$  + the geographically adjusted service portion of  $-\$12,980.76 = \$9,360.15$ .

The insurance carrier paid  $\$21,142.53$ . As a result, additional reimbursement is not recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is  $\$0.00$ .

### **ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to  $\$0.00$  reimbursement for the disputed services.

### **Authorized Signature**

_____	_____	10/02/2018
Signature	Medical Fee Dispute Resolution Officer	Date

### **YOUR RIGHT TO APPEAL**

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §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 MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **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.**