



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

ULTIMATE PAIN SOLUTIONS

Respondent Name

NEW HAMPSHIRE INSURANCE CO

MFDR Tracking Number

M4-17-3090-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

JUNE 19, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Below and attached are copies of EOB's from Gallagher Bassett Insurance Company. There are 9 different date groups as listed on the EOBs. Attached to the EOBs are our documentation showing why we should be paid for these services. We show that a total of \$19,760.00 was billed and that \$0.00 dollars were approved for payment."

Amount in Dispute: \$19,760.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Coventry stands by the review of the above bills and Mary agreed they billed the incorrect diagnosis on the noted dates of service and also acknowledged payment on the noted dates of service."

Position Summary Submitted by: Gallagher Bassett

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Rows include service dates from July 2016 to March 2017 and corresponding CPT codes and amounts.

July 15, 2016 through July 28, 2016	Work Hardening Program CPT Codes 97545-WH and 97546-WH (Total of 62 Hours)	\$17,300.00	\$2,560.00
July 15, 2016 July 20, 2016	CPT Code 90834	\$550.00/ea	\$0.00
TOTAL		\$19,760.00	\$2,808.55

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, effective May 31, 2012 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §133.10, effective April 1, 2014, sets out the required billing forms and formats.
3. 28 Texas Administrative Code §134.230, effective July 17, 2016 sets out the reimbursement guidelines for work hardening programs.
4. 28 Texas Administrative Code §134.239, effective July 7, 2016 refers to §129.5 for billing of work status reports.
5. 28 Texas Administrative Code §129.5, effective July 16, 2000, sets out the procedure for reporting and billing work status reports.
6. 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.
7. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 146-Diagnosis was invalid for the date(s) of service reported.
 - 16-Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.
 - 18-Duplicate claim/service.
 - 29-The time limit for filing has expired.
 - W3-Request for reconsideration.
 - 193-Original payment for decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Is the respondent's denial of payment based upon invalid diagnosis supported?
2. Is the respondent's denial of payment based upon a lack of documentation supported?
3. Is the respondent's denial of payment for the office visits supported?
4. Is the respondent's denial of payment for the psychotherapy supported?
5. Is the respondent's denial of payment for the work status report supported?
6. What is the appropriate reimbursement for physical therapy services?
7. What is the appropriate reimbursement for work hardening services?

Finding

1. According to the explanation of benefits, the respondent denied reimbursement for the disputed services based upon reason code "146-Diagnosis was invalid for the date(s) of service reported".

Per 28 Texas Administrative Code §133.10 (f)(1)(M), "diagnosis or nature of injury (CMS-1500/field 21) is required, at least one diagnosis code and the applicable ICD indicator must be present."

The requestor billed for these disputed services using ICD10-diagnosis codes "S335XXA-Sprain of ligaments of lumbar spine, initial encounter" and "M5414-radiculopathy of thoracic region."

ICD-10 is the 10th revision of the International Statistical Classification of Diseases and Related Health Problems (ICD), a medical classification list by the World Health Organization. ICD-10 went into effect on or after October 1, 2015. Per ICD-10, the requestor's codes are valid ICD-10 diagnosis codes.

The division finds that the respondent lists S5335XXA instead of S335XXA. The division further finds that

S335XXA is a valid code. The division concludes that the respondent's denial based upon reason code "146" is not supported.

2. According to the explanation of benefits, the respondent denied reimbursement for the following services based upon reason code "16-Claim/service lacks information or has submission/billing error(s) which is needed for adjudication".
 - Work hardening program rendered July 20, 2016 through July 27, 2016.
 - Physical therapy services, CPT codes 97110, 97140, and G0283 rendered August 5, 2016 through August 7, 2016.

The requestor submitted documentation to support the billed services; therefore, the denial of payment based upon reason code "16" is not supported for these services.

3. The requestor is seeking reimbursement for office visits, CPT code 99213, rendered on December 7, 2016, December 30, 2016, January 25, 2017 and March 1, 2017.

The fee guideline for office visits is found in 28 Texas Administrative Code §134.203.

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 99213 is defined as "Office or other outpatient visit for the evaluation and management of an established patient, which requires at least 2 of these 3 key components: An expanded problem focused history; An expanded problem focused examination; Medical decision making of low complexity. Counseling and coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of low to moderate severity. Typically, 15 minutes are spent face-to-face with the patient and/or family."

The respondent did not submit copies of the office visits reports to support billing per 28 Texas Administrative Code §134.203; therefore, reimbursement is not recommended.

4. According to the explanation of benefits, the respondent denied reimbursement for CPT code "90834-Psychotherapy, 45 minutes with patient" based upon reason code "18-Duplicate claim/service."

The fee guideline for psychotherapy services is found in 28 Texas Administrative Code §134.203.

The requestor did not submit copies of the psychotherapy services to support billed services; therefore, reimbursement is not recommended.

5. The requestor is seeking reimbursement for work status reports, CPT code 99080-73, rendered on December 7, 2016, December 30, 2016, January 25, 2017 and March 1, 2017.

The fee guideline for work status reports is found in 28 Texas Administrative Code §134.239.

CPT code 99080-73 is defined as "Special reports such as insurance forms, more than the information conveyed in the usual medical communications or standard reporting form."

28 Texas Administrative Code §129.5(i)(1) states "Notwithstanding any other provision of this title, a doctor may bill for, and a carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the carrier, its agent, or the employer through its carrier, asks for an extra copy. The amount of reimbursement shall be \$15. A doctor shall not bill in excess of \$15 and shall not bill or be entitled to reimbursement for a Work Status Report which is not reimbursable under this section. Doctors are not required to submit a copy of the report being billed for with the bill if the report was previously provided. Doctors billing for Work Status Reports as permitted by this section shall do so as follows: (1) CPT code "99080" with modifier "73" shall be used when the doctor is billing for a report required under subsections (d)(1), (d)(2), and (f) of this section."

The respondent did not submit copies of the work status reports to support billing per 28 Texas Administrative Code §129.5; therefore, reimbursement is not recommended.

6. The fee guidelines for physical therapy services is found in 28 Texas Administrative Code §134.203.

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."

CMS published Medical Learning Network (MLN) Matters, effective January 1, 2011, which states in part, "Many therapy services are time-based codes, i.e., multiple units may be billed for a single procedure. The Centers for Medicare & Medicaid Services (CMS) is applying a MPPR to the practice expense payment when more than one unit or procedure is provided to the same patient on the same day, i.e., the MPPR applies to multiple units as well as multiple procedures. Full payment is made for the unit or procedure with the highest PE payment. For subsequent units and procedures, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment for the PE for services furnished in office settings and other non-institutional settings and at 75 percent payment for the PE services furnished in institutional settings." The multiple procedure rule discounting applies to the disputed services.

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 77042, which is located in Houston, Texas; therefore the Medicare carrier locality is "Houston, Texas".

Using the above formula and multiple procedure reduction, the Division finds:

DATE	CODE	NO. OF UNITS	MEDICARE PARTICIPATING AMOUNT	MAR	IC PAID	TOTAL DUE
July 11, 2016	97110	2	\$32.95/ea	\$92.01	\$104.58	\$0.00
	97140	1	\$30.44	\$36.87	\$36.87	\$0.00
August 5, 2016 August 7, 2016	97110-GP	1	\$32.95	\$52.29 X 2 = \$104.58	\$0.00	\$104.58
July 11, 2016 August 5, 2016 August 7, 2016	97140-GP	1	\$30.44	\$36.87 X 3 = \$110.61	\$0.00	\$110.61
August 5, 2016 August 7, 2016	G0283-GP	1	\$14.11	\$16.68 X 2 = \$33.36	\$0.00	\$33.36

7. The requestor is seeking additional reimbursement for a work hardening program rendered to the injured worker from July 15, 2016 through July 28, 2016.

The fee guidelines for work hardening services is found in 28 Texas Administrative Code §134.230.

28 Texas Administrative Code §134.230(1) states "Accreditation by the CARF is recommended, but not required.

(A) If the program is CARF accredited, modifier "CA" shall follow the appropriate program modifier as designated for the specific programs listed below. The hourly reimbursement for a CARF accredited program shall be 100 percent of the maximum allowable reimbursement (MAR).
 (B) If the program is not CARF accredited, the only modifier required is the appropriate program modifier. The hourly reimbursement for a non-CARF accredited program shall be 80 percent of the MAR."

The requestor billed 97545-WH and 97546-WH without the CA modifier; therefore, the disputed program is non-CARF accredited and reimbursement shall be 80% of the MAR.

28 Texas Administrative Code §134.230 (3) states "For division purposes, Comprehensive Occupational Rehabilitation Programs, as defined in the CARF manual, are considered Work Hardening.
 (A) The first two hours of each session shall be billed and reimbursed as one unit, using CPT code 97545 with modifier "WH." Each additional hour shall be billed using CPT code 97546 with modifier "WH." CARF accredited programs shall add "CA" as a second modifier.

(B) Reimbursement shall be \$64 per hour. Units of less than one hour shall be prorated by 15 minute increments. A single 15 minute increment may be billed and reimbursed if greater than or equal to eight minutes and less than 23 minutes."

DATE	CODE	NO. OF UNITS	MAR	IC PAID	TOTAL DUE
July 15, 2016	97545	2	\$102.40	\$102.40	\$0.00
	97546	2	\$102.40	\$102.40	\$0.00
July 18, 2016	97545	2	\$102.40	\$102.40	\$0.00
	97546	6	\$307.20	\$307.20	\$0.00
July 20, 2016	97545	2	\$102.40	\$0.00	\$102.40
	97546	6	\$307.20	\$0.00	\$307.20
July 21, 2016	97545	2	\$102.40	\$0.00	\$102.40
	97546	6	\$307.20	\$0.00	\$307.20
July 22, 2016	97545	2	\$102.40	\$0.00	\$102.40
July 25, 2016	97545	2	\$102.40	\$0.00	\$102.40
	97546	6	\$307.20	\$0.00	\$307.20
July 26, 2016	97545	2	\$102.40	\$0.00	\$102.40
	97546	6	\$307.20	\$0.00	\$307.20
July 27, 2016	97545	2	\$102.40	\$0.00	\$102.40
	97546	6	\$307.20	\$0.00	\$307.20
July 28, 2016	97545	2	\$102.40	\$0.00	\$102.40
	97546	6	\$307.20	\$0.00	\$307.20
TOTAL		62			\$2,560.00

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 \$2,808.55.

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 \$2,808.55 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

9/26/2017
Date

YOUR RIGHT TO REQUEST AN 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, 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 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