



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 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION GENERAL INFORMATION

Requestor Name

INJURY 1 OF DALLAS

Respondent Name

SENTRY INSURANCE A MUTUAL COMPANY

MFDR Tracking Number

M4-17-3587-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

August 9, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The claims were denied per EOB based on the findings of a review organization... CPT codes 90837 and 90901 were preauthorized...therefore it is deemed medically necessary."

Amount in Dispute: \$1,858.06

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Please see the EOB(s) and the reduction rationale(s) stated therein."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
December 14, 2016 and January 10, 2017	90837-59 x 2 and 90901 x 2	\$1,858.06	\$532.20

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 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.600 sets out the guidelines for preauthorization, concurrent review, and voluntary certification of healthcare.
- 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
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 216 – Based on the findings of a review organization
 - 151 – Payment adjusted because the payer deems the information submitted does not support this many/frequency of services

Issue(s)

1. Are the insurance carrier’s denial reasons supported?
2. Is CPT Code 90901 a timed procedure code?
3. What is the applicable rule for determining reimbursement for the disputed services?
4. Is the requestor entitled to reimbursement for the disputed services?

Findings

1. The requestor seeks reimbursement for CPT Codes 90837-59 and 90901 rendered on December 14, 2016 and January 10, 2017. The insurance carrier denied the disputed services with denial reduction codes: “216 – Based on the findings of a review organization.”

The respondent states in their position summary, “Please see the EOB(s) and the reduction rationale(s) stated therein.” The requestor states in their position summary, “The claims were denied per EOB based on the findings of a review organization... CPT codes 90837 and 90901 were preauthorized...therefore it is deemed medically necessary.”

The requestor submitted a copy of a preauthorization letter issued by Coventry Worker’s Comp Services, addressed to Injury 1 of Dallas, dated December 7, 2016. The preauthorization letter indicated the following:

Requested Service Description	Certified Quantity	Start Date	End Date
Individual Psychotherapy 1xWkx4Wks	4 Mental Health Therapy	12/07/16	02/10/17
“On behalf of SENTRY INSURANCE, the requested treatment referenced above has been reviewed by Coventry Health Care Workers Compensation, Inc. (Coventry) and has been determined to be medically necessary.”			

The requestor submitted a copy of a preauthorization letter issued by Coventry Worker’s Comp Services, addressed to Injury 1 of Dallas, dated December 7, 2016. The preauthorization letter indicated the following:

Requested Service Description	Certified Quantity	Start Date	End Date
Biofeedback Therapy 1xWkx4Wks (EMG, PNG, TEMP)	4 Mental Health Therapy	12/07/16	02/10/17
“On behalf of SENTRY INSURANCE, the requested treatment referenced above has been reviewed by Coventry Health Care Workers Compensation, Inc. (Coventry) and has been determined to be medically necessary.”			

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 90837 is defined as “Psychotherapy, 60 minutes with patient.”

CPT Code 90901 is defined as “Biofeedback training by any modality.”

28 Texas Administrative Code §134.600 (p) (7) states in pertinent part, “Non-emergency health care requiring preauthorization includes... (7) all psychological testing and psychotherapy, repeat interviews, and biofeedback, except when any service is part of a preauthorized or division exempted return-to-work rehabilitation program...”

28 Texas Administrative Code §134.600 (c) (1) (B) states in pertinent part, “(c) The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur... (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care...”

The Division finds that the insurance carrier’s denial for the psychotherapy and biofeedback services is not supported and the disputed services are therefore reviewed pursuant to 28 Texas Administrative Code §134.203.

2. 28 Texas Administrative Code §134.203 states in pertinent part (b) 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.”

The Medicare Quarterly Provider Newsletter found at https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/MedQtrlyComp_Newsletter_ICN903696.pdf dated April 2011 revised October 2011 states in pertinent part, "Untimed codes are used by providers to bill for services that are not defined by specific time frames. The reimbursement for untimed codes is fixed. No matter how long the evaluation or service, providers can bill only one unit of untimed codes for a patient per date of service with some exceptions..."

The requestor billed 12 units of CPT Code 90901. The Division finds that reimbursement is limited to one unit. As a result, the requestor is entitled to one unit of CPT Code 90901 rendered on December 14, 2016 and January 10, 2017.

3. 28 Texas Administrative Code §134.203 states in pertinent part, "(c) 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..."

Procedure code 90837, rendered on December 14, 2016, is a professional service paid per Rule §134.203(c). For this code, the relative value (RVU) for work of 3 multiplied by the geographic practice cost index (GPCI) for work of 1.018 is 3.054. The practice expense (PE) RVU of 0.47 multiplied by the PE GPCI of 1.009 is 0.47423. The malpractice RVU of 0.11 multiplied by the malpractice GPCI of 0.772 is 0.08492. The sum of 3.61315 is multiplied by the division conversion factor of \$56.82 for a MAR of \$205.30. As a result, this amount is recommended.

Procedure code 90901, rendered on December 14, 2016, is a professional service paid per Rule §134.203(c). For this code, the relative value (RVU) for work of 0.41 multiplied by the geographic practice cost index (GPCI) for work of 1.018 is 0.41738. The practice expense (PE) RVU of 0.64 multiplied by the PE GPCI of 1.009 is 0.64576. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.772 is 0.01544. The sum of 1.07858 is multiplied by the division conversion factor of \$56.82 for a MAR of \$61.28. Per Rule §134.203(h), reimbursement is the lesser of the MAR or the provider's usual and customary charge. The lesser amount is \$61.28. As a result, this amount is recommended.

Procedure code 90837, rendered on January 10, 2017, is a professional service paid per Rule §134.203(c). For this code, the relative value (RVU) for work of 3 multiplied by the geographic practice cost index (GPCI) for work of 1.015 is 3.045. The practice expense (PE) RVU of 0.46 multiplied by the PE GPCI of 1.012 is 0.46552. The malpractice RVU of 0.11 multiplied by the malpractice GPCI of 0.77 is 0.0847. The sum of 3.59522 is multiplied by the division conversion factor of \$57.50 for a MAR of \$206.73. Per Rule §134.203(h), reimbursement is the lesser of the MAR or the provider's usual and customary charge. The lesser amount is \$205.31. As a result, this amount is recommended.

Procedure code 90901, rendered on January 10, 2017, is a professional service paid per Rule §134.203(c). For this code, the relative value (RVU) for work of 0.41 multiplied by the geographic practice cost index (GPCI) for work of 1.015 is 0.41615. The practice expense (PE) RVU of 0.61 multiplied by the PE GPCI of 1.012 is 0.61732. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.77 is 0.0154. The sum of 1.04887 is multiplied by the division conversion factor of \$57.50 for a MAR of \$60.31. As a result, this amount is recommended.

4. Review of the submitted documentation finds that the requestor is entitled to reimbursement in the amount of \$532.20 for disputed CPT Codes 90837 and 90901 rendered on December 14, 2016 and January 10, 2017.

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 \$532.20.

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 \$532.20 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

September 29, 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, 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.