



# 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**

PATIENT CARE INJURY CLINIC

**Respondent Name**

CONTINENTAL INSURANCE COMPANY

**MFDR Tracking Number**

M4-18-4321-01

**Carrier's Austin Representative**

Box Number 57

**MFDR Date Received**

July 16, 2018

#### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "The division's commissioner issued bulletin #B-0020-17. The proclamation states that system participants who reside within the counties listed have the right for the Texas workers' compensation deadlines to be tolled through the duration of the proclamation. The proclamation further states that a waiver is applied to non-emergency healthcare provided out of network throughout the length of the proclamation which ended January 2018."

**Amount in Dispute:** \$3,132.56

#### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The insurance carrier denied/reduced the disputed service with reason code(s); Services not authorized by network/primary care providers' Carrier claim... is a participant in the network TXHCN."

**Response Submitted by:** Brian J. Judis

#### **SUMMARY OF DISPUTED SERVICE(S)**

Date(s) of Service	Disputed Service(s)	Amount in Dispute	Amount Due
September 19, 2017 through December 6, 2017	97110-GP, 97140-GP, 97112-GP and G0283	\$3,132.56	\$2,481.44

#### **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:
  - 242 – Services not provided by network/primary care providers
  - \* – Date(s) of service exceed (95) date time period for submission per Rule 408.027 and Bulletin No. B-0037-05A
  - 2 – This provider was not certified or eligible to be paid for this procedure or service on this date of service

## Issue(s)

1. Were the requestor's services rendered during the Governor's proclamation dated August 23, 2017?
2. What is the fee schedule amount for the disputed services?
3. Is the requestor entitled to reimbursement?

## Findings

1. The dates of the service in dispute are September 19, 2017 through December 6, 2017. The request for medical fee dispute resolution was received in the Medical Fee Dispute Resolution (MFDR) Section on July 16, 2018. The injured employee is enrolled in a certified healthcare network and the insurance carrier denied the disputed services with denial reason code, "242 – Services not provided by network/primary care provider."
  - The requestor performed the services in zip code 77076, Houston, Texas which is located in Harris County.
  - On August 23, 2017, Governor Greg Abbott issued a proclamation declaring that Hurricane Harvey poses a threat of imminent disaster along the Texas Coast and in numerous counties including Montgomery County. The declaration states in pertinent part: "THEREFORE, in accordance with the authority vested in me by Section 418.014 of the Texas Government Code, I do hereby declare a state of disaster in the previously listed counties based on the existence of such threat. Pursuant to Section 418.017 of the code, I authorize the use of all available resources of state government and of political subdivisions that are reasonably necessary to cope with this disaster. Pursuant to Section 418.016 of the code, any regulatory statute prescribing the procedures for conduct of state business or any order or rule of a state agency that would in any way prevent, hinder or delay necessary action in coping with this disaster shall be suspended upon written approval of the Office of the Governor. However, to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to protect life or property threatened by this declared disaster, I hereby authorize the suspension of such statutes and rules for the duration of this declared disaster."
  - Governor Abbott issued subsequent proclamations extending the state of disaster for the named counties due to the substantial destruction in South, Central and East Texas. To date, the Hurricane Harvey Disaster Proclamations cover a period from August 23, 2017 through January 10, 2018 for Montgomery County.
  - The Texas Department of Insurance Commissioner's Bulletin #B-0020-17 states in pertinent part, "...For the duration of the Governor's disaster proclamation, and with reference to claims involving workers' compensation claimants residing in a county included in the Governor's disaster proclamation insurance carriers must provide or continue to provide:
    - Waiver of penalties and restrictions related to necessary emergency and non-emergency health care provided out-of-network.
    - Coverage of payment for necessary emergency and non-emergency health care services obtained out-of-network.
  - The Texas Department of Insurance issued Commissioner's Bulletins# B-0020-17 and B-0042-17 as a result of the Governor's Proclamation. The bulletins "required insurance carriers to continue to process and pay workers' compensation claims and tolled (paused) deadlines for specified workers' compensation procedures involving system participants who reside in the counties listed in the Governor's disaster proclamation."
  - Review of the submitted documentation supports that the disputed services were rendered on September 19, 2017 through December 6, 2017. The Hurricane Harvey Disaster Proclamations covers a period from August 23, 2017 through January 10, 2018 for Harris County. As a result, the Division finds that the insurance carrier's denial reasons are unsupported. Therefore, the disputed services are reviewed pursuant to the division rules and guidelines.

2. The requestor seeks reimbursement for CPT Codes 97110-GP, 97140-GP, 97112-GP and G0283 rendered on September 19, 2017 through December 6, 2017. 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 97110, rendered on September 19, 2017, , has a Work RVU of 0.45 multiplied by the Work GPCI of 1.02 is 0.459. The practice expense RVU of 0.45 multiplied by the PE GPCI of 1.009 is 0.45405. The malpractice RVU of 0.02 multiplied by the malpractice GPCI of 0.946 is 0.01892. The sum is 0.93197 multiplied by the DWC conversion factor of \$57.50 for a MAR of \$53.59. For each extra therapy unit after the first unit of the code with the highest PE, payment is reduced by 50% of the practice expense. The PE for this code is not the highest. The PE reduced rate is \$40.53 at 4 units is \$162.12. Therefore, this amount is recommended.
  - Procedure code 97140, rendered on September 19, 2017, has a Work RVU of 0.43 multiplied by the Work GPCI of 1.02 is 0.4386. The practice expense RVU of 0.41 multiplied by the PE GPCI of 1.009 is 0.41369. The malpractice RVU of 0.01 multiplied by the malpractice GPCI of 0.946 is 0.00946. The sum is 0.86175 multiplied by the DWC conversion factor of \$57.50 for a MAR of \$49.55. For each extra therapy unit after the first unit of the code with the highest PE, payment is reduced by 50% of the practice expense. The PE for this code is not the highest. The PE reduced rate is \$37.66 at 2 units is \$75.32. Therefore, this amount is recommended.
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  - Procedure code G0283, rendered on September 19, 2017, has a Work RVU of 0.18 multiplied by the Work GPCI of 1.02 is 0.1836. The practice expense RVU of 0.2 multiplied by the PE GPCI of 1.009 is 0.2018. The malpractice RVU of 0.01 multiplied by the malpractice GPCI of 0.946 is 0.00946. The sum is 0.39486 multiplied by the DWC conversion factor of \$57.50 for a MAR of \$22.70. For each extra therapy unit after the first unit of the code with the highest PE, payment is reduced by 50% of the practice expense. The PE for this code is not the highest. The PE reduced rate is \$16.90. Therefore, this amount is recommended.
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3. Review of the submitted documentation finds that the requestor is entitled to reimbursement in the amount of \$2,481.44. As a result, \$2,481.44 is recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$2,481.44.

**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 \$2,481.44 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

\_\_\_\_\_  
Date

May 9, 2019

**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.**