



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

BRENT J. MORRIS, MD

Respondent Name

TRAVELERS INDEMNITY CO OF CONN

MFDR Tracking Number

M4-18-5060-01

Carrier's Austin Representative

Box Number 05

MFDR Date Received

AUGUST 20, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: The requestor did not submit a position summary.

Amount in Dispute: \$1,235.82

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Provider has waived the right to reimbursement under Rule 133.307 as they did not timely file their Request for Medical Fee Dispute Resolution with the Division within one year of the date of service as required by Rule 133.307(c)(1)."

Response Submitted By: Atty. William E. Weldon/Travelers

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 18, 2017	CPT Code 64718-59-RT Neuroplasty and/or transposition; ulnar nerve at elbow	\$1,235.82	\$0.00

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 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.

3. The services in dispute were reduced / denied by the respondent with the following reason codes:
- 97-Payment adjusted because the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
 - 1115-We find the original review to be accurate and are unable to recommend any additional allowance.
 - 903-In accordance with clinical based coding edits (National Correct Coding Initiative/Outpatient Code Editor), component code of comprehensive surgery: Endocrine, nervous, eye and ocular adnexa, auditory systems procedure (60000-69999) has been disallowed.
 - 974-This procedure is included in the basic allowance of another procedure.
 - W3-Additional payment made on appeal/reconsideration.
 - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Was the request for medical dispute resolution filed timely?
2. Is the allowance of code 64718-59-RT included in the allowance of 24685-RT rendered on the disputed date of service? Is the requestor due reimbursement?

Findings

1. This dispute involves date of service August 18, 2017. The dispute was filed to TDI-DWC MFDR on August 20, 2018. TDI-DWC addresses the issue as follows:
 - The requestor performed the service 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 Waller 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 treat. 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 Harris County.
 - 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."
 - 28 Texas Administrative Code §133.307(c)(1)(A), states in pertinent part "A request for medical fee dispute resolution...shall be filed no later than one year after the date(s) of service in dispute."
 - In this dispute, 28 Texas Administrative Code §133.307(c)(1)(A), is computed by **counting** each day up to and including August 23, 2017, then by **NOT counting** each day from August 24, 2017, through January 9, 2018, and finally by counting of days from January 10, 2018 and on. In other

words, the total days would be computed by adding only the days counted before, and the days counted after the tolled period, not to include any of the days in the tolled period.

MFDR's obligation under the Governor's Proclamations and the Commission's Bulletins is to accept date of service August 18, 2017, as timely because the one-year dispute filing deadline, in this case, is tolled.

2. According to the explanation of benefits, the respondent denied reimbursement for CPT code 64718-59-RT based upon "Payment adjusted because the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated," "903-In accordance with clinical based coding edits (National Correct Coding Initiative/Outpatient Code Editor), component code of comprehensive surgery: Endocrine, nervous, eye and ocular adnexa, auditory systems procedure (60000-69999) has been disallowed," and "974-This procedure is included in the basic allowance of another procedure."

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) 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..."

On the disputed date of service the requestor billed CPT codes 24685-RT and 64718-59-RT.

Per CCI edits, the allowance of CPT 64718-59-RT is included in the allowance of code 24685-RT; however, a modifier is allowed to differentiate the service.

The requestor appended modifier 59-Distinct Procedural Service" to code 64718 to differentiate it from 24685. Modifier "59" is defined as "Under certain circumstances, it may be necessary to indicate that a procedure or service was distinct or independent from other non-E/M services performed on the same day. Modifier 59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances. Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual. However, when another already established modifier is appropriate it should be used rather than modifier 59. Only if no more descriptive modifier is available, and the use of modifier 59 best explains the circumstances, should modifier 59 be used."

Based upon the operative report both procedures were performed on the right elbow during the same session. The division finds the respondent's denial of payment for code 64718-59-LT is supported. As a result, 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


Signature

Elizabeth Pickle, RHIA
Medical Fee Dispute Resolution Officer

9/14/2018
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.