



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Hand & Wrist Center of Houston

Respondent Name

Texas Mutual Insurance Company

MFDR Tracking Number

M4-23-0999-01

Carrier's Austin Representative

Box Number 54

DWC Date Received

December 30, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
April 7, 2022	73140-26	\$90.89	\$12.80
Total		\$90.89	\$12.80

Requestor's Position

"The healthcare provider's position on this claim is that this date of service has been partially denied. We find that one of the charges on this claim has not been paid at 100% of the statutory fee as required by law per Texas Administrative Code Title 28 Part 2 Chapter 134 Subchapter C Rule 134.202. The attached medical records adequately support each of the services provided and is sufficient to warrant payment as set forth by the aforementioned section of the Texas Administrative Code. The injured worker's medical condition has been determined to be a medical emergency as defined in the Texas Administrative Code."

Amount in Dispute: \$90.89

Respondent's Position

"This claim is in the WorkWell, TX network. Texas Mutual has reviewed the network provider directory for the provider's name and tax identification number and confirmed no record of HAND & WRIST CENTER OF HOUSTON DEPT A or Dr. Mark Henry as a participant.

As an out-of-network provider, approval is required before rendering service or treatment. Texas Mutual did not receive or find any evidence of out-of-network approval obtained by the requestor. Since this fee reimbursement dispute involves a network requirement under the Insurance Code rather than the Labor Code, Texas Mutual believes this dispute is outside the jurisdiction of DWC MDR. Our position is that no payment is due."

Response Submitted by: Texas Mutual Insurance Company

Findings and Decision

Authority

This medical fee dispute is decided according to [Texas Labor Code \(TLC\) §413.031](#) and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Statutes and Rules

1. 28 Texas Administrative Code ([TAC](#)) [§133.305](#) sets out the procedures for resolving medical disputes.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §134.203](#) sets out the fee guideline for professional medical services.
4. Texas Insurance Code (TIC) [Chapter 1305](#) governs workers' compensation health care networks.

Denial Reasons

The insurance carrier denied the payment for the disputed services with the following claim adjustment codes:

- CAC-W3 & 350 – IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
- CAC-18 – EXACT DUPLICATE CLAIM/SERVICE.
- CAC-193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.
- CAC-236 – THIS BILLING CODE IS NOT COMPATIBLE WITH ANOTHER BILLING CODE PROVIDED ON THE SAME DAY ACCORDING TO NCCI OR WORKERS COMPENSATION STATE REGULATIONS/FEE SCHEDULE REQUIREMENTS.
- DC4 – NO ADDITIONAL REIMBURSEMENT ALLOWED AFTER RECONSIDERATION.
- DC7 – DUPLICATE APPEAL NETWORK CONTRACT APPLIED BY WORKWELL, TX NETWORK. CALL (888) 532-5248 FOR RECONSIDERATION DISCUSSION.

- 435 – PER NCCI EDITS, THE VALUE OF THIS PROCEDURE IS INCLUDED IN THE VALUE OF THE COMPREHENSIVE PROCEDURE.

Issues

1. At the disputed services out-of-network health care?
2. If the disputed services are out-of-network, is the insurance carrier liable for the disputed services under TIC §1305.006?
3. Is the insurance carrier's denial supported?
4. Is the requestor entitled to reimbursement?

Findings

1. The requestor, Hand & Wrist Center of Houston, submitted medical fee dispute M4-23-0999-01 to DWC for resolution pursuant to 28 TAC §133.307. The dispute concerns surgical services provided by the requestor on April 7, 2022. Per the submitted documentation, the injured employee's claim is within the WorkWell certified healthcare network. The requestor was not enrolled in the certified healthcare network on the day the services in dispute were provided. As a result, the requestor provided out-of-network health care to the injured employee.

The Requestor, having provided out-of-network services, asserts that the care provided was "emergency care" such that network-based restrictions are inapplicable, and the respondent/cARRIER is required to pay in accordance with the TLC and DWC rules. A medical fee dispute of this nature is within the jurisdiction of DWC.

2. The requestor submitted the dispute requesting reimbursement for the disputed services as governed by the Texas Labor Code (TLC) legislation and rules, including 28 TAC §133.307. The requirements mentioned in the relevant sections of the TIC, Chapter 1305, are applicable to DWC's ability to apply the TLC legislation and DWC rules for out-of-network health care. TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by §1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation."

TIC §1305.006 titled *INSURANCE CARRIER LIABILITY FOR OUT-OF-NETWORK HEALTH CARE* states, "An insurance carrier that establishes or contracts with a network is liable for the following out-of-network healthcare that is provided to an injured employee:

- (1) emergency care;
- (2) health care provided to an injured employee who does not live within the service area of any network established by the insurance carrier or with which the insurance carrier has a contract; and
- (3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to §1305.103."

The requestor therefore has the burden to prove that the exceptions outlined in the TIC §1305.006 were met for the insurance carrier to be liable for the disputed services. The requestor contends that the disputed services were provided for emergency care in TIC

§1305.006(1). TIC §1305.006(2) and (3) were not shown to be applicable in this case.

DWC concludes that the services in dispute were rendered on the day the injury occurred. The insurance carrier issued payment for most of the charges except for the service in dispute, CPT code 73140-26. The disputed charge is therefore reviewed pursuant to the applicable rules and guidelines.

3. This dispute pertains to the non-payment of radiology service rendered on April 7, 2022, and billed under CPT code 97140-26. The requestor seeks reimbursement in the amount of \$90.89. Using the previously mentioned denial reduction codes, the insurance carrier audited and denied the disputed service.

TIC §1305.153 (c) provides that "Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation."

To determine if the services in dispute were bundled into the surgical services rendered on the same day, the DWC refers to 28 TAC §134.203.

28 TAC §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 TAC §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."

The requestor billed CPT code 73140-26 described as "Radiologic examination, finger(s), minimum of 2 views."

The requestor appended modifier "26" described as "Professional component, used when a physician interprets but does not perform the test."

The DWC performed NCCI edits to identify a potential editing conflict that might affect reimbursement. The following codes were billed on April 7, 2022:

CPT codes 26765, 11012, 11760 and 73140. Per compliance editor, the charge lines did not trigger edits and is considered clean. As a result, the service in dispute is reimbursed pursuant to the applicable rules and guidelines.

4. 28 TAC §134.203(c)(1) states, "...To determine to MAR for professional services, system participants shall apply the Medicare payment policies with minimal modification...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 \$53.68..."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = Maximum Allowable Reimbursement (MAR).

- The 2022 DWC Conversion Factor is 62.46
- The 2022 Medicare Conversion Factor is 34.6062
- A review of the medical bills finds that the disputed services were rendered in zip code 77022; the Medicare locality is "Houston."
- The Medicare Participating amount for CPT code 73140-26 in this locality is \$7.09.
- Using the above formula, the DWC finds the MAR is \$12.80.
- The requestor seeks \$90.89.
- The respondent paid \$0.00.
- Reimbursement of \$12.80 is recommended.

The DWC finds that the requestor is entitled to reimbursement for the disputed services

Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

The DWC finds the requestor has established that reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed services. It is ordered that the respondent must remit to the requestor \$12.80 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

May 24, 2024

Date

Your Right to Appeal

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the instructions on the form. You can find the form at www.tdi.texas.gov/forms/form20numeric.html. DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, call CompConnection at 1-800-252-7031, option 3 or email CompConnection@tdi.texas.gov.

The party seeking review of the MFDR decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** with any other required information listed in [28 TAC §141.1\(d\)](#).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, opción 3 o correo electrónico CompConnection@tdi.texas.gov.