



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Keith Louden, M.D.

**Respondent Name**

Texas Mutual Insurance Company

**MFDR Tracking Number**

M4-23-2361

**Carrier's Austin Representative**

Box Number 54

**DWC Date Received**

May 19, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 27, 2022	Designated Doctor Examination 99456-W8-RE	\$0.00	\$0.00
	Range of Motion Testing 95851	\$247.44	\$146.42
<b>Total</b>		\$247.44	\$146.42

### Requestor's Position

"THE CURRENT RULES ALLOW REIMBURSEMENT"

**Amount in Dispute:** \$247.44

### Respondent's Position

"On 12/1/2022 Texas Mutual Insurance Company issued payment to Pacific Billing Services Inc. In the amount of \$540.26 (Base exam \$350 + range of motion for 1 body area \$150 + range of motion for a second body are in the amount of \$40.26). Pacific Billing services did not bill the additional range of motion areas combined with code 99456-W8-RE. Instead, they billed them with CPT code 95851 at \$287.70 for 7units. The bill was incorrectly entered with only 1 unit in our billing system and was processed for 1 unit in error. On 2/7/23 an additional \$69.54 payment was issued when the units were corrected to 7."

**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 \(TAC\) §133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 TAC §134.203](#) sets out the fee guidelines for professional medical services.
3. [28 TAC §134.235](#) sets out the fee guidelines for examinations to determine ability to return to work.

### Denial Reasons

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

- CAC-144 – Incentive adjustment, e.g. preferred product/service.
- 192 – This provider has been reimbursed the additional HPSA amount.
- CAC-P12 – Workers' compensation jurisdictional fee schedule adjustment.
- CAC-131 – Claim specific negotiated discount.
- DC3 – Additional reimbursement allowed after reconsideration.
- 420 – Supplemental payment.

### Issues

1. What are the services considered in this dispute?
2. Is Keith Louden, M.D. entitled to additional reimbursement?

### Findings

1. Dr. Louden is seeking additional reimbursement for a designated doctor examination performed on October 27, 2022, to determine the injured employee's ability to return to work. The examination included range of motion testing.

Dr. Louden is seeking \$0.00 for the examination to determine the ability to return to work. Therefore, this service will not be considered in this dispute. Dr. Louden is seeking an additional reimbursement of \$247.44 for the range of motion testing, billed for seven units. This service is considered in this dispute.

2. 28 TAC §134.235 states, in relevant part, "Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee."

Reimbursement policies for professional services is found in 28 TAC §134.203, which states, in relevant 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."

Reimbursement fee guidelines for professional services are addressed in 28 TAC §134.203(c), which states in relevant part: "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 ...
- (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 95851 is defined as "Range of motion measurements and report (separate procedure); each extremity (excluding hand) or each trunk section (spine)." Dr. Louden performed range of motion measurements for the cervical, thoracic, and lumbar spine; bilateral upper extremities; and bilateral lower extremities equaling seven units.

To determine the MAR, the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) x Medicare Participating Amount.

- The DWC conversion factor for 2022 is 62.46.
- The Medicare conversion factor for 2022 is 34.6062.
- Per the submitted medical bills, the service was rendered in zip code 79761 which is in Medicare locality 0441299.

The Medicare participating amount for CPT code 95851 is \$20.28 per unit. The MAR is calculated as follows:  $(62.46/34.6062) \times \$20.28 = \$36.60$  per unit.

The total MAR for seven units is \$256.22. Per explanations of benefits dated December 1, 2022, and February 7, 2023, the insurance carrier reimbursed \$109.80. An additional reimbursement of \$146.42 is recommended.

## 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.

DWC finds the requestor has established that an additional reimbursement of \$146.42 is due.

## **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that Texas Mutual Insurance Company must remit to Keith Loudon, M.D. \$146.42 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

## **Authorized Signature**

_____	_____	April 12, 2024
Signature	Medical Fee Dispute Resolution Officer	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](http://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, please call CompConnection at 1-800-252-7031, option three or email [CompConnection@tdi.texas.gov](mailto: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 tres o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).