TDI Division of Workers' Compensation
PO Box 12050 | Austin, TX 78711 | 800-252-7031 | tdi.texas.gov/wc

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Peak Integrated Healthcare

Respondent Name
Indemnity Insurance Co. of North America

MFDR Tracking Number
M4-23-2444-01

Carrier's Austin Representative
Box Number 15

DWC Date Received
May 25, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
January 30, 2023	Physical Performance Evaluation 97750-GP	$531.04	$404.25

Requestor's Position

"We have received NO payment for this date of service … **This is incorrect. DWC rule 134.204(g).** The fee schedule allows for **$531.04** to be charged for PHYSICAL PERFORMANCE EVALUATION that lasts 2 hours (8 units). The Maximum Allowable Reimbursement (MAR) for Workers' Compensation is configured by the Conversion Factor (which is a combination of the Medicare and DWC Conversation [sic] Factors) multiplied by the Participating Provider fee. **The charge does not exceed the fee schedule.**"

Amount in Dispute: $531.04

Respondent's Position

"The provider billed under CPT code 97750 with a modifier of GP. However, the provider submitted documentation that supports the billing of an FCE exam with a modifier of FC whereas it billed for a PPE exam. While the provider has met the components of the FCE exam, the provider must follow the billing requirements under Rule 134.204, which would require identifying the modifier FC. Until the provider uses the modifier FC, the provider is not entitled to

payment … The provider is not entitled to any reimbursement based upon the provider's current documentation and CMS-1500s. If the provider will bill in accordance with the Medical Fee Guidelines, the carrier will reimburse the provider. However, until the provider does as required, the carrier's position remains that the provider based upon the documentation submitted compared to the billing modifiers, the provider is not entitled to any monies."

Response Submitted by: Flahive, Ogden & Latson

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 services.

Denial Reasons

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

- 90403(112) – Service not furnished directly to the patient and/or not documented.
- 119 – Benefit maximum for this time period or occurrence has been reached.
- 163 – The charge for this procedure exceeds the unit value and/or the multiple procedure rules.
- 90202(B13) – Previously paid. Payment for this claim/service may have been provided in a previous payment.
- 247 – A payment or denial has already been recommended for this service.

Issues

1. Is Indemnity Insurance Co. of North America's denial of payment supported?

2. Is Peak Integrated Healthcare entitled to reimbursement for the services in question?

Findings

1. Peak Integrated Healthcare is seeking reimbursement for a physical performance evaluation using procedure code 97750-GP, eight units, performed on January 30, 2023. The insurance carrier denied payment, in part, with denial code "90403 (112) Service not furnished directly to the patient and/or not documented."

   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.

Procedure code 97750 is defined as "Physical performance test or measurement (e.g., musculoskeletal, functional capacity), with written report, each 15 minutes." The requestor billed this code with modifier "GP." Medicare Claims Processing Manual 100-04, Chapter 5 - Part B Outpatient Rehabilitation and CORF/OPT Services, Subsection 20.1 states that modifier "GP" indicates that the services were "delivered under an outpatient physical therapy plan of care."

A review of the services in question finds that submitted documentation supports that a physical performance test as defined was performed on the date of service in question. Therefore, the insurance carrier's denial of payment for this reason is not supported.

2. Because the insurance carrier failed to support its denial of payment, DWC will review the services for reimbursement in accordance with applicable fee guidelines.

Reimbursement fee guidelines for professional services are addressed in 28 TAC §134.203(c), which states in relevant 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 …

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. The 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.

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

- The DWC conversion factor for 2023 is 64.83.
- The Medicare conversion factor for 2023 is 33.887.

- Per the submitted medical bills, the service was rendered in zip code 75211, which is in Medicare locality 0441211.

The Medicare participating amount for CPT code 97750 is $34.70 for the first unit and $25.23 for subsequent units. The MAR is calculated as follows:

- (64.83/33.887) x $34.70 = $66.38 for the first unit.
- (64.83/33.887) x $25.23 = $48.27 for each subsequent unit.

The total MAR for eight units is $404.25. This amount 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 requester has established that additional reimbursement of $404.25 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 Indemnity Insurance Co. of North America must remit to Peak Integrated Healthcare $404.25 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		May 23, 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. 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 three, 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 tres o correo electronico CompConnection@tdi.texas.gov.