



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

Peak Integrated
Healthcare

Respondent Name

Amtrust Insurance Co.

MFDR Tracking Number

M4-24-0791-01

Carrier's Austin Representative

Box Number 17

DWC Date Received

December 7, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
August 31, 2023	97750-FC	\$531.04	\$404.25

Requestor's Position

"We disagree that service exceeds UR auth amount or that it needed preauthorization."

Amount in Dispute: \$531.04

Respondent's Position

The Austin carrier representative for Amtrust Insurance Co. is Downs Stanford, P.C. The representative was notified of this medical fee dispute on December 12, 2023. Per 28 Texas Administrative Code §133.307 (d)(1), if DWC does not receive the response within 14 calendar days of the dispute notification, then DWC may base its decision on the available information. As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

Response Submitted by: N/A

Findings and Decision

Authority

This medical fee dispute is decided according to [Texas Labor Code §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 §134.600](#) sets out the procedures for preauthorization requirements of healthcare services.
3. [28 TAC §134.203](#) sets out the fee guideline for professional medical services.
4. [28 TAC §134.225](#) sets the reimbursement guidelines for FCEs.

Denial Reasons

- 198 – PRECERTIFICATION/NOTIFICATION/AUTHORIZATION/PRE-TREATMENT EXCEEDED.
- 350 – BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
- 95 – PLAN PROCEDURES NOT FOLLOWED.
- N54 - CLAIM INFORMATION IS INCONSISTENT WITH PRE-CERTIFIED/AUTHORIZED SERVICES.
- U05 – THE BILLED SERVICE EXCEEDS THE UR AMOUNT AUTHORIZED.

Issues

1. Is the insurance carrier's denial of the disputed service supported?
2. Is the requestor entitled to reimbursement for CPT code 97750-FC?

Findings

1. The requestor billed the insurance carrier for a functional capacity evaluation (FCE) under CPT code 97750-FC x 8 units, rendered on August 31, 2023.

The insurance carrier denied payment for the service in dispute based on lack of precertification/preauthorization.

28 TAC §134.600(p), which sets out the non-emergency health care requiring preauthorization, does not require that FCEs be preauthorized. Therefore, DWC finds that preauthorization was not required for the rendering of the service in dispute.

28 TAC §134.225, which sets guidelines for the billing and reimbursement of FCEs states, "The following applies to functional capacity evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using

CPT code 97750 with modifier 'FC.' FCEs shall be reimbursed in accordance with §134.203(c) of this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a division ordered test; a maximum of two hours for an interim test; and a maximum of three hours for the discharge test unless it is the initial test. Documentation is required. "

A review of the submitted documents finds no evidence that three previous FCEs have been performed and reimbursed or that the maximum hours allowed for an FCE has been exceeded.

DWC finds that denial of the disputed service, CPT code 97750-FC, rendered on August 31, 2023, is not supported.

2. The requestor is seeking reimbursement in the amount of \$531.04 for 8 units of CPT code 97750-FC rendered on August 31, 2023. Because denial of the disputed service was not supported, DWC finds that the requestor is entitled to reimbursement.

CPT Code 97750-FC is defined as a functional capacity evaluation and is identified as a division-specific service.

DWC finds that the following Texas Administrative Code (TAC) Rules apply to the reimbursement of 97750-FC:

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."

Per [Medicare Claims Processing Manual \(cms.gov\)](#), Chapter 5, 10.7, effective February 6, 2019:

Medicare applies a multiple procedure payment reduction (MPPR) to the practice expense (PE) payment of select therapy services. The reduction applies to the HCPCS codes contained on the list of "always therapy" services ...

Many therapy services are time-based codes, i.e., multiple units may be billed for a single procedure ...

Full payment is made for the unit or procedure with the highest PE payment ... For subsequent units and procedures with dates of service on or after April 1, 2013, furnished to the same patient on the same day, full payment is made for work and malpractice and 50 percent payment is made for the PE for services submitted on either professional or institutional claims.

Procedure code 97750 is classified as "always therapy" in the 2023 Therapy Code List and Dispositions found in the [Annual Therapy Update | CMS](#) and has a value of "5" on the MFSD. Therefore, the MPPR applies to the reimbursement of this code.

The applicable fee guideline for FCEs is found at 28 TAC §134.225, which states, "The following applies to functional capacity evaluations (FCEs). A maximum of three FCEs for each compensable injury shall be billed and reimbursed. FCEs ordered by the division shall not count toward the three FCEs allowed for each compensable injury. FCEs shall be billed using CPT code 97750 with modifier "FC." FCEs shall be reimbursed in accordance with §134.203(c) of

this title. Reimbursement shall be for up to a maximum of four hours for the initial test or for a division ordered test; a maximum of two hours for an interim test; and a maximum of three hours for the discharge test unless it is the initial test. Documentation is required. "

A review of the medical record submitted finds that the requestor documented and billed for two-hours / 8 units of a functional capacity evaluation on the disputed date of service, in accordance with 28 TAC §134.225.

28 TAC §134.203 states in pertinent part, "(c) To determine the Maximum Allowable Reimbursement (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..."

On the disputed date of service, the requestor billed CPT code 97750-FC X 8 units.

As described above, the multiple procedure discounting rule applies to the disputed service.

The MPPR Rate File that contains the payments for 2023 services is found at www.cms.gov/Medicare/Billing/TherapyServices/index.html.

To determine the MAR the following formula is used:

$(\text{DWC Conversion Factor} / \text{Medicare Conversion Factor}) \times \text{Medicare Payment} = \text{MAR}$.

- MPPR rates are published by carrier and locality.
- Disputed service was rendered in zip code 75043, locality 11, Dallas.
- The disputed date of service is August 31, 2023.
- The Medicare participating amount for CPT code 97750 in 2023 at this locality is \$34.70 for the first unit, and \$25.23 for each subsequent unit.
- The 2023 DWC Conversion Factor is 64.83
- The 2023 Medicare Conversion Factor is 33.8872
- Using the above formula, DWC finds the MAR is \$404.25.
- The respondent paid \$0.00.
- Reimbursement in the amount of \$404.25 is recommended.

DWC finds that reimbursement is due in the amount of \$404.25.

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 reimbursement is due in the amount of \$404.25.

ORDER

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed date of service August 31, 2023. It is ordered that the Respondent, Amtrust Insurance Co., must remit to the Requestor, 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

_____	_____	March 4, 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, please 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.