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
Stephanie Cohen, D.C.

Respondent Name
Zurich American Insurance Company
c/o Stone Loughlin Swanson

MFDR Tracking Number
M4-24-1054-01

Carrier's Austin Representative
Box Number 19

DWC Date Received
January 16, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 23, 2023	Designated Doctor Examination 99456-W6-RE	$0.00	$0.00
	Range of Motion Testing 95851	$82.20	$82.20
	Total	$82.20	$82.20

Requestor's Position

"THE CURRENT RULES ALLOW REIBURSEMENT"

Amount in Dispute: $82.20

Respondent's Position

"The Division ordered the examination for extent of injury only, as evidenced by the attached Division Order … The provider billed using the designated doctor code (99456) and the W6 and RE modifiers for Special Services but also billed $500.00, which billing is appropriate, but included $82.20 for ROM measurements using Code 95851. There is no reason or provision to perform range of motion measurements in evaluating extent of injury … Carrier stands by the reasons for its initial denial of payment and those set forth in its Explanation of Benefits attached hereto."

Response Submitted by: Stone Loughlin & Swanson, LLP

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) §127.10 sets out the procedures for designated doctors.
2. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 TAC §134.203 sets out the fee guidelines for professional medical services.
4. 28 TAC §134.235 sets out the fee guidelines for examinations to determine the extent of the compensable injury.

Denial Reasons

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

- 05 – The value of the service or procedure is included in the value of another procedure performed on this date.
- 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.

Issues

1. What are the services considered in this dispute?
2. Is Stephanie Cohen, D.C. entitled to additional reimbursement?

Findings

1. Dr. Cohen is seeking additional reimbursement for a designated doctor examination to determine the extent of a compensable injury with additional testing. Dr. Cohen is seeking $0.00 for the findings related to the extent of the compensable injury. Therefore, this service will not be considered in this dispute.

   Dr. Cohen is seeking $82.20 for a range of motion testing. This is the service that will be considered in this dispute.

2. The rules at 28 TAC §134.210 explain that an examination by a designated doctor to determine the extent of a compensable injury, represented by CPT code 99456 with modifiers "W6" and "RE," is a division-specific service not subject to Medicare billing rules. If the examining doctor determines that additional testing is required to make a determination, 28 TAC §134.235 requires that the testing be billed using the appropriate CPT codes and

reimbursed in addition to the examination fee.

Dr. Cohen billed procedure code 95851 for two units. This code is defined as "Range of motion measurements and report (separate procedure); each extremity (excluding hand) or each trunk section (spine)." Documentation submitted to DWC supports that Dr. Cohen performed range of motion testing for the cervical spine and right shoulder. Therefore, Dr. Cohen is entitled to reimbursement for this service at two units.

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 …"

To determine the MAR, 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 33.8872.
- Per the submitted medical bills, the service was rendered in zip code 77027 which is in Medicare locality 0441218.

The Medicare participating amount for CPT code 95851 is $21.78. The MAR is calculated as follows: (64.83/33.8872) x $21.78 = $41.67 per unit.

The total MAR for two units is $83.34. Dr. Cohen is seeking $82.20 for this service. 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 requestor has established that an additional reimbursement of $82.20 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 Zurich American Insurance Co. must remit to Stephanie Cohen, D.C. $82.20 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		April 5, 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 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.