

Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

BRANDON C MARROW

Respondent Name

ARCH INDEMNITY INSURANCE CO

MFDR Tracking Number

M4-24-1565-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

March 14, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
November 14, 2023	CPT Code 97750-FC (X 16 units) Functional Capacity Evaluation (FCE)	\$252.35	\$0.00
Total		\$252.35	\$0.00

Requestor's Position

"On 12/11/2023, we received payment of \$762.53 for the initial Functional Capacity Evaluation (FCE) that was performed on 11/14/2023. I appealed this decision on 12/18/2023 with an appeal letter, TDI rules pertaining to the FCE explaining the cost of each billable unit, along with the number of billable units for the initial FCE, the mathematical equation to explain the amount we are reimbursed, along with all documentation to support our request because we normally receive \$1014.88 for the initial FCE, not \$762.53."

Amount in Dispute: \$252.35

Respondent's Position

"We are attaching a copy of the providers CMS 1500 and the carrier's EOBs including the initial one dated December 4, 2023 which supports the carrier's reimbursement amount of \$762.53. The provider billed 16 units. See the providers CMS 1500. The carrier's analysis is that the first unit is paid at \$63.53 with each additional unit being paid in the amount of \$46.60. There are 15 additional units which totaled \$699. Added to the first unit of \$63.73 amounts to a total allowance of \$762.53.

The provider is been paid all that the provider is entitled to.”

Response Submitted by: Flahive Ogden & Latson

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 §134.203 sets out the fee guideline for professional medical services.
3. 28 TAC §134.210 applied to fee guidelines for division-specific services.
4. 28 TAC §134.225 sets the reimbursement guidelines for FCEs.

Denial Reasons

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

- 309 – The charge for this procedure exceeds the fee schedule allowance.
- 163 – The charge for this procedure exceeds the unit value and/or the multiple procedure rules.
- ZC72 – In the even this payment needs to be returned to the payer, please return the check to POX Box 734732, Chicago IL 60673-4732
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly

Issues

1. Is BRANDON C MARROW entitled to additional reimbursement?

Findings

1. BRANDON C MARROW is seeking additional reimbursement for a functional capacity evaluation performed on November 14, 2023. The examination is identified as a division-specific service with billing code 97750-FC.

28 TAC §134.225 states: “The following applies to functional capacity evaluations (FCEs) ... FCEs shall be billed using CPT code 97750 with modifier ‘FC.’ FCEs shall be reimbursed in accordance

with §134.203(c)(1) of this title.”

Per 28 TAC §134.203 (b)(1), parties are required to apply Medicare payment policies, including its coding, billing, correct coding initiatives (CCI) edits, modifiers, and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules to workers’ compensation coding, billing, reporting, and reimbursement of professional medical services.

28 TAC §§134.203 (a)(7) and 134.210 (a) state that specific provisions contained in the Texas Labor Code or division rules shall take precedence over any conflicting provision adopted or utilized by CMS in administering the Medicare program. However, no such conflict regarding billing or reimbursement was found that applies to a division-specific functional capacity evaluation. Therefore, Medicare reimbursement rules are applied to the examination in question.

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-FC 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.

On the disputed date of service, the requestor billed CPT code 97750-FC x 16 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 <https://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.
- The disputed date of service is November 14, 2023.
- The disputed service was rendered in zip code 75701, locality 99.
- The Medicare participating amount for CPT code 97750-FC at this locality is \$33.21 for the first unit, and \$24.36 for subsequent 15 units.
- The 2023 DWC Conversion Factor is 64.83.
- The 2023 Medicare Conversion Factor is 33.8872.
- The MAR amount for CPT code 97750-FC at this locality is \$63.53 for the first unit, and

\$699.05 for each subsequent 15 units.

- Using the above formula, the DWC finds the total MAR is \$762.58.
- The respondent paid \$762.53.
- No additional reimbursement is recommended.

The division finds that the requestor has not established that additional reimbursement is due.

Conclusion

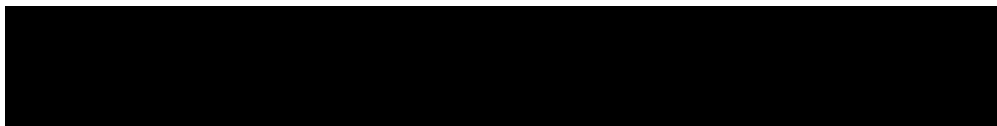
The outcome of this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

The division finds that no additional reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to \$0.00 additional reimbursement for the disputed service.

Authorized Signature



April 17, 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 electronico CompConnection@tdi.texas.gov.