



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Marcus Hayes, D.C.

Respondent Name

XL Insurance America Inc.

MFDR Tracking Number

M4-24-1662-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

April 2, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 16, 2023	97110	\$240.00	\$220.39
October 16, 2023	97530	\$112.00	\$112.00
October 16, 2023	97124	\$48.00	\$41.40
October 17, 2023	97110	\$240.00	\$220.39
October 17, 2023	97530	\$112.00	\$112.00
October 17, 2023	97124	\$48.00	\$41.40
October 19, 2023	97110	\$240.00	\$220.39
October 19, 2023	97530	\$112.00	\$112.00
October 19, 2023	97124	\$48.00	\$41.40
October 24, 2023	97110	\$240.00	\$0.00
October 24, 2023	97530	\$112.00	\$0.00
October 24, 2023	97124	\$48.00	\$0.00
October 25, 2023	97110	\$240.00	\$0.00
October 25, 2023	97530	\$112.00	\$0.00

October 25, 2023	97124	\$48.00	\$0.00
October 26, 2023	97110	\$240.00	\$0.00
October 26, 2023	97530	\$112.00	\$0.00
October 26, 2023	97124	\$48.00	\$0.00
October 31, 2023	97110	\$240.00	\$0.00
October 31, 2023	97530	\$112.00	\$0.00
October 31, 2023	97124	\$48.00	\$0.00
November 1, 2023	97110	\$240.00	\$0.00
November 1, 2023	97530	\$112.00	\$0.00
November 1, 2023	97124	\$48.00	\$0.00
November 2, 2023	97110	\$240.00	\$0.00
November 2, 2023	97530	\$112.00	\$0.00
November 2, 2023	97124	\$48.00	\$0.00
Total		\$3,600.00	\$1,121.37

Requestor's Position

"The claim has been denied for 'extent of Injury', but this is not an Extent of injury issue."

Amount in Dispute: \$3,600.00

Respondent's Position

The Austin carrier representative for XL Insurance America Inc is Flahive Ogden & Latson. The representative was notified of this medical fee dispute on April 10, 2024. Per 28 Texas Administrative Code §133.307 (d)(1), if the DWC does not receive the response within 14 calendar days of the dispute notification, then the 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.

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 Medical Fee Dispute Resolution requests.
2. [28 \(TAC\) §133.305](#) sets out general Medical Dispute Resolution guidelines.
3. [28 TAC §133.240](#) sets out the procedures for medical bill processing by insurance carriers.
4. [28 TAC §134.203](#) sets out the fee guidelines for professional medical services.

Adjustment Reasons

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

Explanation of Benefits (EOB) issued by Gallagher Bassett:

- 119 – Benefit maximum for this time period or occurrence has been reached.
- 16 – Claim / service lacks information or has submission/billing error(s) which is needed for adjudication.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- P6 – Based on entitlement to benefits.

Issues

1. Are the disputed services subject to dismissal based on extent of injury, liability, or compensability issues?
2. Is the insurance carrier's denial reason(s) for disputed dates of service October 16, 2023, October 17, 2023, and October 19, 2023, supported?
3. Is the insurance carrier's denial reason for disputed dates of service October 24, 2023, through November 2, 2023, supported?
4. Is the requestor entitled to reimbursement for any dates of service in dispute?

Findings

1. The requestor is seeking reimbursement for therapy services rendered October 16, 2023, through November 2, 2023.

A review of the submitted EOB dated December 15, 2023, finds that the services in dispute were denied due to an unresolved extent-of-injury, liability or compensability dispute. In accordance with 28 TAC §133.307 (d)(2)(H), on receipt of the request for medical fee dispute resolution (MFDR), the respondent must provide any missing information not provided by the requestor and known to the respondent. In pertinence to this medical fee dispute, in its response to a MFDR request involving compensability, extent of injury, or liability, the insurance carrier must attach any related Plain Language Notice.

The submitted documentation does not include a related Plain Language Notice of disputes of extent of injury, liability, or compensability. DWC finds that the services in dispute are not subject to dismissal based on extent of injury, liability, or compensability. Therefore, this dispute is eligible for MFDR review.

2. On each disputed date, October 16, 17, and 19, of 2023, the requestor charged for CPT codes 97110-GP x 5 units, 97530-GP x 2 units, and 97124-GP x 1 unit. An examination of the EOB issued by Gallagher Bassett dated March 20, 2024, finds that these services were denied on all 3 dates based on benefit maximum reached and based on lack of information needed to adjudicate the claim.

A review of the submitted documents finds no evidence to support that a benefit maximum for the services in dispute had been reached. The medical records submitted include documentation of the therapy services provided as they were charged on the medical bills.

DWC finds that for the disputed dates of service October 16, 17 and 19, 2023, the insurance carrier's denial reasons based on benefit maximum and lack of information are not supported.

3. The insurance carrier denied reimbursement for all CPT codes (therapy services) billed on dates of service October 24, 2023, through November 2, 2023, in part based on lack of information needed to adjudicate the medical claim.

A review of the submitted documentation finds no medical record or evidence to support that therapy services were rendered on the disputed dates of October 24, 2023, through November 2, 2023. Therefore, DWC finds that the insurance carrier's reason for denial of dates of service October 24, 2023, through November 2, 2023, based on lack of information, is supported. Therefore, DWC finds that the requestor is not entitled to reimbursement for these disputed dates of service.

4. Because the insurance carrier's reasons for denial of services rendered on October 16, 17 and 19, 2023, were not supported, DWC finds that the requestor is entitled to reimbursement for these disputed dates of service. Therefore, DWC will adjudicate for reimbursement of the services in dispute rendered on October 16, 17 and 19, 2023.

On the disputed dates of service, October 16, 17 and 19, of 2023, the requestor charged \$240.00 for CPT code 97110-GP x 5 units, \$112.00 for CPT code 97530 x 2 units, and \$48.00 for CPT code 97124 x 1 unit, for a total charge of \$400.00 per each date of service.

CPT code 97110 is described as, "Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility."

CPT Code 97530 is described as, "Therapeutic activities, direct one-on-one patient contact (use of dynamic activities to improve functional performance), each 15 minutes."

CPT code 97124 is described as, "Therapeutic procedure, 1 or more areas, each 15 minutes; massage, including effleurage, petrissage and/or tapotement (stroking, compression, percussion)."

The requestor appended the above CPT codes with modifier "GP" which indicates the service was delivered by a physical therapist or under an outpatient physical therapy plan of care.

The fee guidelines applicable to the services in dispute are found at 28 TAC §134.203, which states in pertinent part, "(a)(5) 'Medicare payment policies' when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

Medicare Claims Processing Manual Chapter 5, 10.3.7-effective June 6, 2016, titled Multiple Procedure Payment Reductions (MPPR) for Outpatient Rehabilitation Services, states:

Full payment is made for the unit or procedure with the highest PE payment.

For subsequent units and procedures with dates of service prior to April 1, 2013, furnished to the same patient on the same day, full payment is made for work and malpractice and 80 percent payment is made for the PE for services submitted on professional claims (any claim submitted using the ASC X12 837 professional claim format or the CMS-1500 paper claim form) and 75 percent payment is made for the PE for services submitted on institutional claims (ASC X12 837 institutional claim format or Form CMS-1450).

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.

To determine which services will receive the MPPR, contractors shall rank services according to the applicable PE relative value units (RVU) and price the service with the highest PE RVU at 100% and apply the appropriate MPPR to the remaining services.

When the highest PE RVU applies to more than one of the identified services, contractors shall additionally sort and rank these services according to highest total fee schedule amount, and price the service with the highest total fee schedule amount at 100% and apply the appropriate MPPR to the remaining services.

Review of the Medicare policies finds that the multiple procedure payment reduction (MPPR) applies to the Practice Expense (PE) of certain time-based physical therapy codes when more than one unit or procedure is provided to the same patient on the same day. Medicare publishes a list of the codes subject to MPPR annually.

DWC finds that CPT Codes 97110, 97530 and 97124 are subject to the MPPR policy. DWC completed NCCI edits and found that on the disputed dates of service no conflicts exist with the billing of CPT codes 97110, 97530 and 97124 together.

The CPT code 97530 is found to have the highest PE/RVU of the therapeutic services billed on the disputed dates of service. Therefore, the first unit of CPT code 97530 will receive full payment and the reduced PE payment will apply to all subsequent units of timed therapy codes performed on the same date of service.

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

28 TAC §134.203, which applies to the reimbursement of the services in dispute, states in pertinent 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. 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..."

To determine the MAR the following formula is used:

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

- The 2023 DWC Conversion Factor is 64.83
- The 2023 Medicare Conversion Factor is 33.8872
- MPPR rates are published by carrier and locality.
- The disputed therapy services were rendered in zip code 77581, locality 09, Brazoria.

CPT code 97530 x 2 units rendered on October 16, 17 and 19, 2023:

- The Medicare Participating amount in locality 09 is \$38.16 for the first unit and \$26.82 for the second unit.
- Using the above formula, DWC finds the MAR is \$73.00 for the first unit and \$51.31 for the second unit. Therefore, the MAR for 97530 x 2 units in 2023 = \$124.31.
- The insurance carrier issued a payment in the amount of \$0.00.
- The requestor is seeking \$112.00 reimbursement per each date of service in dispute. Therefore, DWC finds that the requestor is entitled to \$112.00 for each disputed date of service October 16, 17 and 19, 2023.

CPT code 97110 x 5 units rendered on October 16, 17 and 19, 2023:

- The Medicare Participating MPPR amount in locality 09 is \$23.04 per unit.
- Using the above formula, DWC finds the MAR is \$44.08 x 5 units = \$220.39.
- The insurance carrier issued a payment in the amount of \$0.00.
- The requestor is entitled to payment in the amount of \$220.39 for each disputed date of service October 16, 17 and 19, 2023.

CPT code 97124 x 1 unit rendered on October 16, 17 and 19, 2023:

- The Medicare Participating MPPR amount in locality 09 is \$21.64.
- Using the above formula, DWC finds the MAR is \$41.40.
- The insurance carrier issued a payment in the amount of \$0.00.
- The requestor is entitled to payment in the amount of \$41.40 for each disputed date of service October 16, 17 and 19, 2023.

DWC finds that the requestor is entitled to reimbursement in the amount of \$373.79 per each date of service October 16, 17 and 19, 2023, for a total reimbursement in the amount of \$1,121.37 for therapy services rendered on these disputed dates.

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 total amount of \$1,121.37 for the disputed dates of service October 16, 2023, October 17, 2023, and October 19, 2023.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for some of the disputed dates of service. It is ordered that XL Insurance America Inc., must remit to Marcus Hayes, D.C., \$1,121.37 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature:

June 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, 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.tas.gov.