Division of Workers' Compensation

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Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Marcus Hayes, D.C.

Respondent Name
FCCI Insurance Co.

MFDR Tracking Number
M4-24-2023-01

Carrier's Austin Representative
Box Number 47

DWC Date Received
May 20, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
February 21, 2024	97750-FC, 12 units	$840.00	$625.98

Requestor's Position

"As of the date of this letter, no payment nor EOB has been received. Payment is past due. Please remit immediately the balance due to $840.00."

Amount in Dispute: $840.00

Respondent's Position

The Austin carrier representative for FCCI Insurance Co. is Burns, Anderson, Jury & Brenner LP. The representative was notified of this medical fee dispute on May 29, 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.

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 §133.240 sets out procedures for medical bill processing by insurance carriers.
3. 28 TAC §134.203 sets out the fee guidelines for professional medical services.
4. 28 TAC §133.210 applied to fee guidelines for division-specific services.
5. 28 TAC §134.225 sets out the fee guidelines for functional capacity evaluations.

Adjustment Reasons

- Neither party submitted an explanation of benefits document.

Issues

1. Has the insurance carrier taken final action on the service in dispute in accordance with 28 TAC §133.240?
2. Is the requestor, Dr. Hayes, entitled to reimbursement for the disputed service of a functional capacity evaluation rendered on February 21, 2024?

Findings

1. 28 TAC §133.240, sets out the procedures for medical bill processing by insurance carriers, states in pertinent part, "(a) An insurance carrier shall take final action after conducting bill review on a complete medical bill, or determine to audit the medical bill in accordance with §133.230 of this chapter (relating to Insurance Carrier Audit of a Medical Bill), not later than the 45th day after the date the insurance carrier received a complete medical bill. An insurance carrier's deadline to make or deny payment on a bill is not extended as a result of a pending request for additional documentation… (e) The insurance carrier shall send the explanation of benefits in accordance with the elements required by §133.500 and §133.501 of this title (relating to Electronic Formats for Electronic Medical Bill Processing and Electronic Medical Bill Processing, respectively) if the insurance carrier submits the explanation of benefits in the form of an electronic remittance. The insurance carrier shall send an explanation of benefits in accordance with subsection (f) of this section if the insurance carrier submits the explanation of benefits in paper form. The explanation of benefits shall be sent to: (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill… (o) An insurance carrier

commits an administrative violation if the insurance carrier fails to pay, reduce, deny, or notify the health care provider of the intent to audit a medical bill in accordance with Labor Code §408.027 and division rules."

A review of the submitted documentation finds evidence sufficient to support that the medical bill and a reconsideration request were successfully sent to the insurance carrier on or before April 15, 2024. As of the date of this review, DWC finds no evidence in the submitted documents to support that the insurance carrier has ever taken action on the medical bill in question. As a result, DWC finds that the insurance carrier has not taken action on the medical bill for the service in dispute in accordance with 28 TAC §133.240?

2. Dr. Hayes is seeking reimbursement for a functional capacity evaluation performed on February 21, 2024. DWC finds that the requestor is entitled to reimbursement, therefore the service in dispute will be reviewed and adjudicated in accordance with the applicable statutes and rules.

   The functional capacity 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 is classified as "always therapy" in the 2024 Therapy Code List and Dispositions found in the Annual Therapy Update | CMS. Therefore, the MPPR applies to the reimbursement of this code.

On the disputed date of service, the requestor documented and billed for CPT code 97750-FC X 12 units.

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

The MPPR Rate File that contains the payments for 2024 services is found at https://www.cms.gov/Medicare/Billing/TherapyServices/index.html.

To determine the MAR the following formula is used:
(DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = MAR.

- MPPR rates are published by carrier and locality.
- The disputed date of service is February 21, 2024.
- The disputed service was rendered in zip code 77581, locality 09.
- The Medicare participating amount for CPT code 97750 at this locality in 2024 is $33.65 for the first unit, and $24.42 for subsequent eleven units.
- The 2024 DWC Conversion Factor is 67.81.
- The 2024 Medicare Conversion Factor is 32.7442.
- Using the above formula, DWC finds the MAR is $625.98.
- The respondent paid $0.00.
- Reimbursement in the amount of $625.98 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 reimbursement is due in the amount of $625.98.

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 FCCI Insurance Co. must remit to Marcus Hayes, D.C. $625.98 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		July 29, 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.