



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Samuel John Alianell MD PA

Respondent Name

TPCIGA For Lumbermens Underwriting

MFDR Tracking Number

M4-24-2029-01

Carrier's Austin Representative

Box Number 50

DWC Date Received

May 20, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Findings
January 3, 2023	80307	\$300.00	\$0.00
February 16, 2023	80307	\$300.00	\$0.00
March 21, 2023	80307	\$300.00	\$0.00
April 18, 2023	80307	\$300.00	\$0.00
June 13, 2023	80307	\$300.00	\$77.67

Requestor's Position

"Our office has been submitting all of ... prescriptions electronically and notifies the pharmacy that her medication should be filled under the patient's worker's compensation (See attached Prescriptions). Each month the patient has in fact filled her medications validating the need to continue monthly screening."

Amount in Dispute: \$1,500.00

Respondent's Position

"Please note that, dates of service 1/3/23- 4/18/2023 does not meet the timeliness requirement of submitting a request for Medical Dispute Resolution per TDI/DWC Rule 133.307(c)(1)(A)"

Response Submitted by: TPCIGA

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 the requirements of medical denials.
3. [28 TAC §124.2](#) sets out the requirements of insurance carrier notifications.
4. [28 TAC §134.203](#) sets out the medical fee guidelines for professional services.

Denial Reasons

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

- 150 – Payment adjusted because the payer deems the information submitted does not support this level of service. Opiates are not being filed on the work injury claim.
- 18 – Exact duplicate claim/service.
- 247 – A payment or denial has already been recommended for this service.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 1241 – No additional reimbursement allowed after review of appeal/reconsideration/request for second review.
- 2005 – No additional reimbursement allowed after review of appeal/reconsideration.
- W3 - Reconsideration

Issues

1. Is the Requestor eligible for medical fee dispute resolution for dates of service January 3, 2023 through April 18, 2023?
2. Did the carrier follow the appropriate administrative process to address the assertions made in its response to medical fee dispute?
3. Did the carrier meet requirements of Plain Language Notification?

4. What rule is applicable to reimbursement?

5. Is the requestor due reimbursement?

Findings

1. The requestor seeks reimbursement for medical services rendered on January 3, 2023, February 16, 2023, March 21, 2023, and April 18, 2023.

DWC Rule 28 TAC §133.307(c) (1) states in pertinent part, "Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the division receives the request.

(A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in dispute.

(B) A request may be filed later than one year after the date(s) of service if:

(i) a related compensability, extent of injury, or liability dispute under Labor Code Chapter 410 has been filed, the medical fee dispute shall be filed not later than 60 days after the date the requestor receives the final decision, inclusive of all appeals, on compensability, extent of injury, or liability;

(ii) a medical dispute regarding medical necessity has been filed, the medical fee dispute must be filed not later than 60 days after the date the requestor received the final decision on medical necessity, inclusive of all appeals, related to the health care in dispute and for which the insurance carrier previously denied payment based on medical necessity; or

(iii) the dispute relates to a refund notice issued pursuant to a division audit or review, the medical fee dispute must be filed not later than 60 days after the date of the receipt of a refund notice.

The request for medical fee dispute resolution for these dates was received in the Medical Fee Dispute Resolution (MFDR) Section on May 20, 2024. This date is later than one year after the date(s) of service in dispute.

A review of the submitted documentation finds that the disputed services do not involve issues identified in 28 TAC §133.307(c) (1) (B) shown above.

The Division concludes that the requestor has failed to timely file this dispute with the Division's MFDR Section for dates of service January 3, 2023, February 16, 2023, March 21, 2023, and April 18, 2023. The requestor has waived the right to medical fee dispute resolution for these dates of service.

2. The requestor seeks reimbursement for CPT code 80307- "Drug tests(s), presumptive, any number of drug classes, qualitative, any number of devices or procedures; by instrument chemistry analyzers (eg, utilizing immunoassay [eg, EIA, ELISA, EMIT, FPIA, IA, KIMS, RIA]), chromatography (eg, GC, HPLC), and mass spectrometry either with or without chromatography, (eg, DART, DESI, GC-MS, GC-MS/MS, LC-MS, LC-MS/MS, LDTD, MALDI, TOF) includes sample validation when performed, per date of service" rendered on June 13, 2023.

The insurance carrier denied the service as, "The payer deems the information submitted does not support this level of service.

DWC Rule 28 Texas Administrative Code §133.240 (q) states, in relevant part, "When denying payment due to an adverse determination under this section, the insurance carrier shall comply with the requirements of §19.2009 of this title ... Additionally, in any instance where the insurance carrier is questioning the medical necessity or appropriateness of the health care services, the insurance carrier shall comply with the requirements of §19.2010 of this title ..., including the requirement that prior to issuance of an adverse determination the insurance carrier shall afford the health care provider a reasonable opportunity to discuss the billed health care with a doctor ..." Submitted documentation does not support that the insurance carrier followed the appropriate procedures for a retrospective review denial of the disputed services outlined in §19.2003 (b)(31) or §133.240 (q). Therefore, the insurance carrier did not appropriately raise medical necessity for this dispute and this denial reason will not be considered in this review.

3. Additionally, the explanation of benefits included a notice that states, and "Opiates not being filed on the work injury claim." DWC Rule 28 TAC §133.307(d)(2)(H) requires that if the medical fee dispute involves compensability, extent of injury, or liability, the insurance carrier shall attach a copy of any related Plain Language Notice in accordance with Rule §124.2 (relating to carrier reporting and notification requirements).

DWC Rule 28 TAC §124.2(h) requires notification to the division and claimant of any dispute of disability or extent of injury using plain language notices with language and content prescribed by the division. Such notices "shall provide a full and complete statement describing the carrier's action and its reason(s) for such action. The statement must contain sufficient claim-specific substantive information to enable the employee/legal beneficiary to understand the carrier's position or action taken on the claim."

Review of the submitted information finds no copies, as required by Rule §133.307(d)(2)(H), of any PLN-11 or PLN 1 notices issued in accordance with Rule §124.2. The insurance carrier's denial reason is therefore not supported. Furthermore, because the respondent failed to meet the requirements of Rule §133.307(d)(2)(H) regarding notice of issues of extent of injury, the respondent has waived the right to raise such issues during dispute resolution.

Consequently, the division concludes there are no outstanding issues of compensability, extent, or liability for the injury. The disputed services are therefore reviewed pursuant to the applicable rules and guidelines.

4. DWC Rule 28 Texas Administrative Code §134.203(a)(5) states, "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." 28 Texas Administrative Code 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.

DWC Rule 28 Texas Administrative Code §134.203(c)(1) and (e)(1) states, "...To determine to MAR for professional services, system participants shall apply the Medicare payment policies with minimal modification...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 \$53.68..." (e) The MAR for pathology and laboratory services not addressed in subsection (c)(1) of this section or in other Division rules shall be determined as follows:

(1) 125 percent of the fee listed for the code in the Medicare Clinical Fee Schedule.

The following formula represents the calculation of the DWC MAR at §134.203 (e).

(CMS Clinical Laboratory Fee Guideline Allowable) \$62.14 x 125% = \$77.67

5. The total allowable DWC fee guideline reimbursement is \$77.67. 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 that the requestor has established that reimbursement in the total amount of \$77.67 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 the TPCIGA for Lumbermens Underwriting must remit to the Samuel John Alianell, \$77.67 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

Signature

Peggy Miller

Medical Fee Dispute Resolution Officer

June 17, 2024

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.texas.gov.