TDI Division of Workers' Compensation
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Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Jason Watkins, D.C.

Respondent Name
Hartford Casualty Insurance Co.

MFDR Tracking Number
M4-24-2195-01

Carrier's Austin Representative
Box Number 47

DWC Date Received
June 6, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
January 22, 2024	Designated Doctor Examination 99456-W6-RE, 99456-W7-RE, 99456-W8-RE	$00.00	$00.00
January 22, 2024	95851	$82.20	$82.20
	Total	$82.20	$82.20

Requestor's Position

"Carrier is required to pay designated doctor exams... The current rules allow reimbursement... An original bill and reconsideration were submitted..."

Amount in Dispute: $82.20

Respondent's Position

"To date, Corvel has not received a request for reconsideration which is a prerequisite for submitting to MFDR. The Requestor is claiming to have submitted a request for reconsideration on 6/4/2024 to [adjustor name]. However, [name] has not worked for Corvel for quite some time and the document indicates the email was 'Undeliverable' to [name]. **please also note that [name] was never the adjuster for this claim, so it is unclear why the Requestor was attempting to email her.** ... Prior to the apparent attempt to email the bill, the Requestor has indicated a reconsideration was faxed on 3/8/2024. However, that fax transmission failed - as noted in the Requestor's documents."

Response Submitted By: Corvel

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 §133.250 sets out the procedures for reconsideration of medical bills.
3. 28 TAC §134.235 sets out the fee guidelines for examinations to determine extent of injury, return to work, and disability.
4. 28 TAC §134.240 sets out medical fee guidelines for designated doctor examinations.
5. Texas Labor Code (TLC) §408.0041 sets out provisions of Designated Doctor examinations under the Texas Workers' Compensation Act.
6. 28 TAC §134.203 sets fee guidelines for professional medical services.

Denial Reasons

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

- 97 – Charge included in another Charge or Service.
- R38 – Included in another billed procedure.

Issues

1. What service is in dispute?
2. Did the requestor seek reconsideration of the medical bill prior to the request for medical fee dispute resolution (MFDR) as required per 28 TAC §133.250?
3. Is the insurance carrier's denial reason of the disputed service supported?
4. Is the requestor entitled to reimbursement?

Findings

1. On the disputed date of service, the designated doctor, Jason Watkins, D.C., billed for an examination to determine the injured worker's extent of compensable injury, whether disability is a direct result of the compensable injury, and the injured employee's ability to return to work status, as was ordered by DWC. The services rendered on January 22, 2024, were billed under CPT codes 99456-W6-RE, 99456-W7-RE, 99456-W8-RE and CPT code 95851 x 2 units. Per the explanation of benefits (EOB) document submitted, all CPT codes other than 95851 were reimbursed for charges in full, in the total amount of $875.00.

Per the EOB submitted, CPT code 95851 was denied reimbursement and is the only service in dispute according to the DWC060, Request for Medical Fee Dispute Resolution (MFDR) form.

DWC finds that CPT code 95851 x 2 units is the only service in dispute.

2. The health care provider is permitted to file for medical fee dispute resolution (MFDR) only after it has filed for reconsideration, per 28 TAC §133.250. The healthcare provider has 10 months from the date of service to request a reconsideration.

   In its position statement, the insurance carrier asserts that it did not receive a request for reconsideration due to email and fax submissions to incorrect contacts by the requestor.

   A review of the submitted documentation finds that on March 8, 2024, the requestor sent a request for reconsideration to the insurance carrier's fax number that was provided on the Request for Designated Doctor Examination, form DWC032. Additionally, DWC finds the insurance adjustor's name listed on the DWC032 form is the same name that the reconsideration request was later emailed to.

   The greater weight of evidence finds that the requestor made reasonable and appropriate efforts to seek a reconsideration of the medical bill prior to making a request for MFDR, in accordance with 28 TAC §133.250. As a result, DWC finds that this medical fee dispute is eligible for MFDR review.

3. Per the EOB submitted, CPT code 95851 was denied because the insurance carrier asserts that CPT code 95851 is included in the payment of the other services rendered on the same date.

   CPT code 95851 is "a medical code used by medical professionals to describe the procedure of measuring the range of motion (ROM) in a single extremity or spine section, excluding the hand, and preparing a formal report."

   28 TAC §134.235, which applies to the billing and reimbursement of the service in dispute, states, "The following shall apply to return to work (RTW)/evaluation of medical care (EMC) examinations. When conducting a division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT code 99456 with modifier 'RE.' In either instance of whether maximum medical improvement/ impairment rating (MMI/IR) is performed or not, the reimbursement shall be $500 in accordance with §134.240 of this title and shall include division-required reports. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee."

   In accordance with 28 TAC §134.235, the designated doctor is entitled to separate, additional reimbursement for the rendering of ROM measurements and testing. Therefore, DWC finds that the insurance carrier's reason for denial of CPT code 95851 is not supported.

4. The requestor, Jason Watkins, D.C., is seeking reimbursement in the amount of $82.20 for the range of motion testing portion of an examination rendered on January 22, 2024, for the purpose of determining the extent of the injured employee's compensable injury, whether disability is the direct result of the compensable injury and to determine the injured employee's ability to return to work.

A review of the submitted documentation supports that Dr. Watkins performed range of motion testing and measurements on two extremities in his examination to determine the extent of injury, disability and return to work status. According to 28 TAC §134.235, the doctor is entitled to additional reimbursement for the range of motion testing billed under CPT code 95851.

DWC finds that 28 TAC §134.203 applies to the reimbursement of the service in dispute. 28 TAC §134.203 states in pertinent part, "(c) To determine the maximum allowable reimbursement (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:
  (DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = MAR
- The 2024 DWC Conversion Factor is 67.81
- The 2024 Medicare Conversion Factor is 32.7442
- The service in dispute was billed as 2 units of CPT code 95851 on January 22, 2024.
- Per the medical bill submitted, the disputed service was rendered in zip code 77027; Medicare locality 18, "Houston."
- The Medicare participating amount for CPT code 95851 in locality 18 in 2024, is $21.54 per unit.
- Using the above formula, DWC finds the MAR for CPT code 95851 x 2 units rendered on the disputed date of service = $89.21.
- The insurance carrier paid $0.00 for the disputed service.
- The requestor is seeking reimbursement in the amount of $82.20. This amount is recommended.
- DWC recommends reimbursement in the amount of $82.20 for the disputed service of CPT code 95851 x 2 units rendered on January 22, 2024.

DWC finds that the requestor, Jason Watkins, D.C., is entitled to reimbursement in the amount of $82.20 for 2 units of CPT code 95851 rendered on January 22, 2024.

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 $82.20.

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 Hartford Casualty Insurance Co. must remit to Jason Watkins, D.C. $82.20 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		July 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.