TDI 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
Hartford Insurance Co. of Illinois

MFDR Tracking Number
M4-24-2725-01

Carrier's Austin Representative
Box Number 47

DWC Date Received
August 12, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 20, 2024	97750-FC, 11 units	$57.95	$48.42

Requestor's Position

Excerpt from the Request for Reconsideration dated July 18, 2024:
"Regarding the reduction in payment, a network reduction of $57.95 was applied. However, this is a non-network claim and therefore, the network reduction should not have been applied."

Amount in Dispute: $57.95

Respondent's Position

"As reflected in the EOBs, Hartford Insurance Company of Illinois properly reimbursed Dr. Hayes in accordance with the Tex as Workers' Compensation Act and Division Rules. The amount in dispute was a PPO reduction."

Response Submitted by: BURNS ANDERSON JURY & BRENNER, L.L.P.

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 guidelines for professional medical services.
3. 28 TAC §133.210 sets out fee guidelines for division-specific services.
4. 28 TAC §134.225 sets out the fee guidelines for functional capacity evaluations.

Adjustment Reasons

- 163 - THE CHARGE FOR THIS PROCEDURE EXCEEDS THE UNIT VALUE AND/OR THE MULTIPLE PROCEDURE RULES.
- 877 - REIMBURSEMENT IS BASED ON THE CONTRACTED AMOUNT.
- 119 - BENEFIT MAXIMUM FOR THIS TIME PERIOD OR OCCURRENCE HAS BEEN REACHED.
- 45 - CHARGE EXCEEDS FEE SCHEDULE/MAXIMUM ALLOWABLE OR CONTRACTED/LEGISLATED FEE ARRANGEMENT.
- EOB Note/Comment - NETWORK REDUCTION: Coventry P&T PRICED USING A COVENTRY CONTRACT.
- 1014 - The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
- 2005 - NO ADDITIONAL REIMBURSEMENT ALLOWED AFTER REVIEW OF APPEAL/RECONSIDERATION.
- 536 - THESE CHARGES HAVE ALREADY BEEN BILLED AND PAID FOR ACCORDING TO FEE SCHEDULE AND/OR REASONABLE GUIDELINES. NO FURTHER PAYMENT IS DUE.
- 5279 - Contract disputes need to be sent to the network for review.
- B13 - PREVIOUSLY PAID. PAYMENT FOR THIS CLAIM/SERVICE MAY HAVE BEEN PROVIDED IN A PREVIOUS PAYMENT.
- W3 – BILL IS A RECONSIDERATION OR APPEAL.

Issues

1. Is the network reduction in reimbursement, applied to the disputed service by the insurance carrier, supported?
2. Is the requestor, Dr. Hayes, entitled to additional reimbursement for the disputed service of a functional capacity evaluation rendered on June 20, 2024?

Findings

1. The insurance carrier representative's position statement in response to the medical fee dispute, states that the amount in dispute is a network reduction. A review of the explanation of benefits (EOB) submitted finds that a network reduction in the amount of $57.95 was deducted from the reimbursement of the disputed service, CPT code 97750-FC x 11 units.

   According to a review of the submitted documentation and information known to DWC, this injured employee's Texas Worker's Compensation claim is a non-network claim. Therefore, DWC finds that the network reduction applied to the reimbursement of the service in dispute was not an appropriate reduction in reimbursement.

   DWC finds that the network reduction applied by the insurance carrier to the disputed service, is not supported.

2. Dr. Hayes is seeking additional reimbursement for a functional capacity evaluation performed on June 20, 2024, billed under CPT code 97750-FC x 11 units.

   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 11 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 June20, 2024.
- The disputed service was rendered in zip code 77074, locality 18.
- The Medicare participating amount for CPT code 97750 at this locality in 2024 is $33.79 for the first unit, and $24.60 for the subsequent ten units.
- The 2024 DWC Conversion Factor is 67.81.
- The 2024 Medicare Conversion Factor is 33.2875 on the disputed ate of service.
- Using the above formula, DWC finds the MAR is $569.96.
- The respondent paid $521.54.
- Additional reimbursement in the amount of $48.42 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 additional reimbursement is due in the amount of $48.42.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that Hartford Insurance Co. of Illinois must remit to Marcus Hayes, D.C. $48.42 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		September 12, 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.