

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

TX Health Flower Mound

**Respondent Name**

Vanliner Insurance Co

**MFDR Tracking Number**

M4-25-0085-01

**Carrier's Austin Representative**

Box Number 6

**DWC Date Received**

September 12, 2024

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
January 2, 2024	430	\$154.25	\$0.00
January 4, 2024	430	\$154.25	\$0.00
January 23, 2024	430	\$0.00	\$0.00
January 2, 2024	430	\$198.50	\$0.00
January 4, 2024	430	\$198.50	\$0.00
January 11, 2024	430	\$198.50	\$0.00
January 12, 2024	430	\$0.00	\$0.00
January 16, 2024	430	\$0.00	\$0.00
January 18, 2024	430	\$0.00	\$0.00
January 23, 2024	430	\$0.00	\$0.00
January 25, 2024	430	\$0.00	\$0.00
January 30, 2024	430	\$0.00	\$0.00
January 2, 2024	430	\$184.50	\$0.00
January 4, 2024	430	\$184.50	\$0.00
January 11, 2024	430	\$184.50	\$0.00
January 12, 2024	430	\$0.00	\$0.00
January 16, 2024	430	\$0.00	\$0.00
January 18, 2024	430	\$0.00	\$0.00
January 23, 2024	430	\$0.00	\$0.00
January 25, 2024	430	\$0.00	\$0.00
January 30, 2024	430	\$0.00	\$0.00

January 11, 2024	430	\$188.00	\$0.00
January 12, 2024	430	\$188.00	\$72.13
January 16, 2024	430	\$188.00	\$72.13
January 18, 2024	430	\$188.00	\$72.13
January 23, 2024	430	\$188.00	\$72.13
January 25, 2024	430	\$188.00	\$72.13
January 30, 2024	430	\$188.00	\$72.13
<b>Total</b>		<b>\$705.39</b>	<b>\$432.78</b>

### Requestor's Position

"The initial claim was sent electronically 2/15/2014 and PAID 619.61, and a reconsideration was 5/1/2024, per EOR, CLAIM DENIAL TIMELY FILING" which leaves a remaining balance of \$705.39."

**Amount in Dispute:** \$705.39

### Respondent's Position

"After reviewing the dispute, Vanliner's research showed that it issued payment in the amount of \$619.60 on April 19, 2024 for DOS 1/2/24 – 1/30/24 pursuant to Vanliner's auditor's review. Vanliner believes that the audit and payment are correct and request the agency find that the bills were correctly paid."

**Response Submitted by:** Stone Loughlin Swanson

### 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 §133.20](#) sets out requirements of medical bill submission.
3. [28 TAC §102.4](#) details the general rules for Non-Division Communication.
4. [Texas Labor Code 408.0272](#) sets out the workers compensation timely billing and exceptions guidelines.
5. [28 TAC §134.403](#) sets out the billing, coding and reimbursement guidelines for outpatient physical therapy.

6. [28 TAC §134.203](#) sets out the reimbursement guidelines for physical therapy services.

### Denial Reasons

The insurance carrier denied the disputed services with the following claim adjustment codes.

- 29 – The time limit for filing has expired.
- 97 – The benefit for this service is included in the pymt/allowance for another service/procedure that has already been adjudicated.
- P12 – Workers’ compensation jurisdictional fee schedule adjustment.
- 59 – Processed based on multiple or concurrent procedure rules.

### Issues

1. Did the requestor support timely submission of medical claim?
2. Is the insurance carrier’s reduction in denial supported?
3. What rule is applicable to reimbursement?
4. Is the requestor entitled to additional payment?

### Findings

1. The requestor is seeking reimbursement for outpatient physical therapy services rendered in January 2024. The insurance carrier denied the following dates of service as not submitted within 95 days of the date of service.
  - January 2, 2024 – 97035 GO
  - January 4, 2024 – 97035 GO
  - January 2, 2024 – 97110 GO
  - January 4, 2024 – 97110 GO
  - January 11, 2024 – 97110 GO
  - January 2, 2024 – 97140 GO
  - January 4, 2024 – 97140 GO
  - January 11, 2024 – 97140 GO
  - January 11, 2024 – 97530 GO

DWC Rule 28 TAC §102.4 (h) Unless the great weight of evidence indicates otherwise, written communications will be deemed to have been sent on:

- (1) the date received if sent by fax, personal delivery, or electronic transmission; or
- (2) the date postmarked if sent by mail through United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five

days is a Sunday or legal holiday, the date deemed sent must be the next previous day that is not a Sunday or legal holiday.

DWC Rule 28 TAC §133.20 (b) states in pertinent part,

(b) Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.

Texas Labor Code 408.0272. (b) states in pertinent part,

(b) Notwithstanding Section 408.0272, a health care provider who fails to timely submit a claim for payment to the insurance carrier under Section 408.0272(a) does not forfeit the provider's right to reimbursement for that claim for payment solely for failure to submit a timely claim if:

(1) the provider submits proof satisfactory to the commissioner that the provider, within the period prescribed by Section 408.027(a), erroneously filed for reimbursement with:

(A) an insurer that issues a policy of group accident and health insurance under which the injured employee is a covered insured;

(B) a health maintenance organization that issues an evidence of coverage under which the injured employee is a covered enrollee; or

(C) a workers' compensation insurance carrier other than the insurance carrier liable for the payment of benefits under this title;

(2) the commissioner determines that the failure resulted from a catastrophic event that substantially interfered with the normal business operations of the provider.

Review of the submitted documentation found in the requestor's position statement they indicate, "The initial claim was sent electronically 2/15/2024 and PAID 619.61..." The explanation of benefits that indicates the payment of \$619.61 shows the carrier received the claim on April 16, 2024. This date is after the 95<sup>th</sup> day for the dates of service January 2, 4, and 11, 2024.

DWC finds there is insufficient information to support an exception described above. No payment is recommended for the dates of service/procedure codes listed above.

2. The insurance carrier denied procedure code 97530 – Therapeutic activities, direct (one-on-one) patient contact (use of dynamic activities to improve functional performance), each 15 minutes as 97 – The benefit for this service is included in the pymt/allowance for another service/procedure that has already been adjudicated.

DWC Rule TAC §134.403 (d) states in pertinent parts, "For coding, billing, reporting, and reimbursement of health care covered in this section, Texas workers' compensation system participants shall apply Medicare payment policies in effect on the date a service is provided..."

Review of the applicable NCCI edits found Code 97530 and 97140 are allowed, Additionally review of the NCCI edits found there are not edits applicable to 97530 and 97110 when submitted on the same medical bill.

Review of the submitted "Progress notes" found the physical therapist documented separate activities represented by the submitted codes. The insurance carriers' denial is not supported. The applicable fee guideline calculation is shown below.

3. DWC Rule 28 TAC §134.403 (d) requires Texas workers' compensation system participants when coding, billing, reporting and reimbursement to apply Medicare payment policies in effect on the date of service.

The Medicare payment policy applicable to the services in dispute is found at [www.cms.gov](http://www.cms.gov), Claims processing Manual, Chapter 4, Section 10.1.1. Specifically, Payment Status Indicators and Ambulatory Payment Category (APC).

Review of the Status Indicator of codes 97110, 97140 and 97530 (status indicator A) at Addenda D1 at [www.cms.gov](http://www.cms.gov) is defined as services furnished to a hospital outpatient that are paid under a fee schedule or payment system other than OPPS.

The applicable DWC fee guideline for physical therapy is 28 TAC §134.203 (b) (1) which requires the application of Medicare payment policies applicable to professional services. The insurance carrier reduced the payment made for the outpatient services per workers' compensation fee guidelines.\*for example: Physical, Occupational and Speech Therapy."

DWC Rule 28 TAC §134.203 (c)(1) states, "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..."

Medicare Claims Processing Manual Chapter 5, 10.3.7-effective June 6, 2016, titled Multiple Procedure Payment Reductions 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.

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

- The dates of service in dispute eligible for dispute are from January 11 through January 30, 2024.
- The DWC conversion factor for 2024 is 67.81
- The Medicare conversion factor for 2024 is 32.7442.
- MPPR rates are published by carrier and locality.
- Review of Box 1 on the CMS-1450 finds that the services were rendered in zip code 75028; therefore, the Medicare locality is "Rest of Texas."
- The MPPR ranking is as follows.
  - Code 97530 has the highest practice expense and will receive full reimbursement.
  - Code 97100 will be paid at 50% of MPPR rate.
  - Code 97140 will be paid at 50% of MPPR rate.
  - Code 97035 will be paid at 50% of MPPR rate.
- The Medicare participating amount for CPT code 97530 is \$34.83.
- The Medicare participating amount for CPT code 97110 is \$21.54.
- The Medicare participating amount for CPT code 97140 is \$20.11.
- The Medicare participating amount for CPT code 97035 is \$10.28.

The following formula represents the calculation of the DWC MAR at §134.203 (c)(1) & (2).

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

Applicable 28 TAC 134.203(h) states that the total reimbursement is the lesser of the maximum allowable reimbursement (MAR) and the billed amount.

As shown above dates of service January 2, 4, and 11, 2024 are not eligible for review. The remaining dates of service in dispute (those listed with a disputed amount on the DWC60) are calculated as follows.

- Code 97530/67.81/32.7442 x 34.83 = \$72.13 x 6 (dates of service 1/12 to 1/30/24) = \$432.78
- Code 97110 – DWC 60 indicates \$0 amount in dispute for dos 1/12/2024 to 1/30/24.
- Code 97140 - DWC 60 indicates \$0 amount in dispute for dos 1/12/2024 to 1/30/24.
- Code 97035 – DWC 60 indicates \$0 amount in dispute for dos 1/23/2024.

4. The total maximum allowable reimbursement (MAR) is \$432.78. 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 the requester has established that additional reimbursement is due.

## 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 Vanliner must remit to TX Health Flower Mound \$432.78 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

### Authorized Signature

_____	_____	October 4, 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](http://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](mailto: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](mailto:CompConnection@tdi.texas.gov).