



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Marcus Hayes, D.C.

**Respondent Name**

XL Insurance America, Inc.

**MFDR Tracking Number**

M4-25-0441-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

October 23, 2024

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
August 5, 2024	97750-FC, 10 units	\$696.90	\$344.27

### Requestor's Position

"The carrier has received these claims twice... In this particular case, the 08/05/2024 FCE was the initial FCE performed on the claimant. Therefore, AI&FATC requests Gallagher Bassett to remit the balance due of \$696.90 for DOS 08/05/2024."

### Requestor's Supplemental Position

"Attached is reimbursement from the carrier for DOS 08/05/2024 in the amount of \$171.99. As this is not the correct reimbursement due, I wish to continue with my fee dispute."

**Amount in Dispute:** \$696.90

### Respondent's Position

"We will provide a supplemental response once the bill auditing company has finalized their review."

**Response Submitted by:** Gallagher Bassett

## 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 §134.600](#) sets out the procedures for preauthorization requirements of healthcare services.
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

- 247-1 - Deductible for Professional service rendered in an Institutional setting and billed on an Institutional claim.
- B13 & 90202 - PREVIOUSLY PAID. PAYMENT FOR THIS CLAIM/SERVICE MAY HAVE BEEN PROVIDED IN A PREVIOUS PAYMENT.
- 00663-1 - REIMBURSEMENT HAS BEEN CALCULATED BASED ON THE STATE GUIDELINES.
- 197 - PRECERTIFICATION/AUTHORIZATIONNOTIFICATION/PRE-TREATMENT ABSENT.
- W3 - IN ACCORDANCE WITH TOI-DWC RULE 134 804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
- 93 - No Claim level Adjustments.
- P12 - Workers' compensation jurisdictional fee schedule adjustment.

### Issues

1. Has the service in dispute received reimbursement from the insurance carrier as of the date of this review?
2. Are the insurance carrier's adjustment reasons supported by the documentation submitted?
3. Is the requestor, Dr. Hayes, entitled to additional reimbursement for the disputed service of a functional capacity evaluation (FCE) rendered on August 5, 2024?

### Findings

1. A review of the submitted explanation of benefits (EOB) document, dated November 21, 2024, finds that payment was made to the requestor in the amount of \$171.99 for the service in dispute. Therefore, DWC finds that the disputed service rendered on August 5, 2024, has

received a reduced reimbursement after the request for medical fee dispute resolution (MFDR), as of the date of this review.

2. Per review of the reimbursement adjustment reasons provided on the EOB documents submitted, DWC finds the following:
  - Regarding reason 247, Deductible for Professional service rendered in an Institutional setting and billed on an Institutional claim, no evidence was submitted to support that the services were billed on an Institutional claim. The services in dispute, covered under a Texas Workers' Compensation claim, are not subject to a deductible. DWC finds this adjustment reason is not supported.
  - Regarding reason B13 and 90202, found on the EOB dated October 21, 2024, which asserts that the disputed claim has already been paid, DWC finds no evidence to support the assertion that a payment had been made prior to November 21, 2024. DWC finds this adjustment reason is not supported.
  - Regarding reason 197, asserting that preauthorization is absent, in accordance with 28 TAC §134.600 (p) which sets out non-emergency health care requiring preauthorization, DWC finds that functional capacity evaluations do not require prior authorization. DWC finds this adjustment reason is not supported.
3. Dr. Hayes is seeking reimbursement for a functional capacity evaluation performed on August 5, 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 10 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 maximum allowable reimbursement (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 August 5, 2024.
- The disputed service was rendered in zip code 77581, locality 09.
- The Medicare participating amount for CPT code 97750 at this locality on the disputed date of service, is \$33.65 for the first unit, and \$24.42 for subsequent units.
- The 2024 DWC Conversion Factor is 67.81.
- The 2024 Medicare Conversion Factor for the date of service August 5, 2024, is 33.2875.
- Using the above formula, DWC finds the MAR for 10 units of CPT code 97750-FC on the disputed date of service is \$516.26.
- The respondent paid \$171.99.
- Additional reimbursement in the amount of \$344.27 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 \$344.27.

## 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 XL Insurance America, Inc. must remit to Marcus Hayes, D.C. \$344.27 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

### Authorized Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

December 19, 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](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).