TDI Division of Workers' Compensation
PO Box 12050 | Austin, TX 78711 | 800-252-7031 | tdi.texas.gov/wc

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Baylor Orthopedic & Spine Hospital

Respondent Name
Indemnity Insurance Co. of North America

MFDR Tracking Number
M4-25-0444-01

Carrier's Austin Representative
Box Number 15

DWC Date Received
October 24, 2024

Summary of Findings

Date(s) of Service	Disputed Services	Amount in Dispute	Amount Due
July 18, 2024	C1713	$7,488.79	$6,942.10
July 18, 2024	C1889	$654.50	$654.50
July 18, 2024	Total MAR		$16,129.25
September 4, 2024	Previous payment adjustment		-$13,127.16
	Total	$8,143.29	$3,002.09

Requestor's Position

"Per EOB received payment was disallowed for Rev code 278 for being bundled codes. Please note that separate reimbursement was requested in Box 80 of UB-04 for implants, and per TX Rule 134.402, implants should be reimbursed at manual cost plus 10%."

Amount in Dispute: $8,143.29

Respondent's Position

"Respondent paid the medical bill pursuant to the OPPS schedule allowance. The billed cost of the implants were not sufficiently documented. Therefore, payment was not recommended for the separate implant cost. In conclusion, no reimbursement is owed based on the documentation submitted with the medical bill."

Response Submitted by: Downs & Stanford, P.C.

Findings and Decision

Authority

This medical fee dispute is decided according to Texas Labor Code §413.031and 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 §134.403 sets out the fee guidelines for outpatient hospital services.

Adjustment Reasons

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

- P12 – WORKERS COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
- 6183 – THE CHARGE FOR THE SERVICES REPRESENTED BY THE REVENUE CODE ARE INCLUDED/BUNDLED INTO THE TOTAL FACILITY PAYMENT AND DO NOT WARRANT A SEPARATE PAYMENT.
- 193 – ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.
- 5283 – ADDITIONAL ALLOWANCE IS NOT RECOMMENDED AS THIS BILL WAS REVIEWED IN ACCORDANCE WITH STATE GUIDELINES, USUAL AND CUSTOMARY POLICIES, PROVIDERS CONTRACT…

Issues

1. What rules apply to the reimbursement of the services in dispute?
2. Did the insurance carrier reimburse the disputed services in accordance with the applicable DWC Rule 28 TAC §134.403?
3. Is the requestor entitled to additional reimbursement?

Findings

1. This dispute involves outpatient hospital facility services in which separate reimbursement for surgical implantable items was requested on the medical bill.

   DWC finds that 28 TAC §134.403 applies to the reimbursement of the services in dispute.

   28 TAC §134.403(e) states in pertinent part, regardless of billed amount, when no specific fee schedule or contract exists, reimbursement shall be the maximum allowable reimbursement

(MAR) amount under subsection (f) of this section including any applicable outlier payment amounts and reimbursement for implantables.

DWC Rule 28 TAC §134.403 (f) states in pertinent part "the reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the *Federal Register*. The following minimal modifications shall be applied. (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:

(A) 200 percent; unless

(B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 130 percent…

(g) Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or $1,000 per billed item add-on, whichever is less, but not to exceed $2,000 in add-ons per admission."

2. The requestor is seeking reimbursement in the amount of $8,143.29 for surgical implantable items billed under disputed procedure codes C1713 and C1889 with revenue code 278.

   In its position statement, the respondent asserts "The billed cost of the implants were not sufficiently documented. Therefore, payment was not recommended for the separate implant cost."

   A review of the submitted medical bill finds that the facility provider requested separate reimbursement for the surgical implantable items in accordance with 28 TAC §134.403.

   Per the submitted itemized statement, the requestor charged for implantable items billed under codes C1713 and C1889 in the total amount of $7,403.00.

   A review of the submitted operative report, implant log and implant invoice, finds the following:

   The itemized statement indicates that the requestor billed for a total to 4 implantable items under Revenue Code 278 with codes C1713 and C1889.

   The submitted "Operative Report" documents that the following products were implanted:

   "IMPLANTS: 1. Arthrex FiberTak x2.;
   2. Artelon FlexBand where we repaired both the ATFL and CFL arms."

   - FiberTak implant kit, billed under procedure code C1713 and revenue code 278, has a supported cost of $1,750.00.
   - FiberTak suture anchor, billed under procedure code C1889 and revenue code 278, has a supported cost of $595.00.
   - Artelon FlexBand, billed under procedure code C1713 and revenue code 278, has a supported cost of $4,561.00.

- The requestor charged $497.00 for Drill 4.55 MM Pilot Tip under procedure code C1713, revenue code 278. DWC finds that this is not an implantable surgical product and therefore the charge and cost are not supported.
- DWC finds that there was a total of three implanted surgical products provided on the disputed date of service with a total supported cost of $6,906.00 x 10% = $690.60 for total implant MAR of $7,596.60.

A review of the submitted documentation finds that on the disputed date of service, the requestor rendered and billed for surgical procedure code 27698-RT in addition to requesting separate reimbursement on the same bill for the implantable surgical items referenced above.

A review of the submitted EOBs find that the insurance carrier denied separate reimbursement for the disputed implantable products. Therefore, DWC finds that the insurance carrier did not reimburse the disputed services in accordance with DWC Rule 28 TAC §134.403.

3. The requestor is seeking reimbursement in the amount of $8,143.29 for disputed procedure codes C1713 and C1889, representing surgical implantable items provided on July 18, 2024, for which separate reimbursement was requested on the medical bill. On the same medical bill, the requestor charged for surgical procedure code 27698-RT.

   DWC Rule 28 TAC §134.403 (d), which applies to the services in dispute, 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, Claims processing Manual, Chapter 4, Section 10.1.1. Specifically, Payment Status Indicators and Ambulatory Payment Category (APC).

   DWC Rule 28 TAC §134.403 (e) states in pertinent part, regardless of billed amount, when no specific fee schedule or contract exists, reimbursement shall be the maximum allowable reimbursement (MAR) amount under subsection (f) of this section including any applicable outlier payment amounts and reimbursement for implantables.

   DWC Rule 28 TAC §134.403 (f) states in pertinent part "the reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied. (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:

   (A) 200 percent; unless

   (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 130 percent…"

   The Medicare facility specific amount is calculated when the APC payment rate is multiplied by 60% to determine the labor portion. This amount is multiplied by the facility wage index

for the date of service. The non-labor amount is determined when the APC payment rate is multiplied by 40%. The sum of the labor portion multiplied by the facility wage index and the non-labor portion determines the Medicare specific amount.

A review of the submitted medical bill in accordance with the applicable fee guidelines referenced above is shown below.

- Procedure code 27698 has status indicator J1, for outpatient comprehensive packaging.
- This code is assigned APC 5114. The OPPS Addendum A rate is $6,816.33 multiplied by 60% for an unadjusted labor amount of $4,089.80, in turn multiplied by facility wage index 0.9382 for an adjusted labor amount of $3,837.05.
- The non-labor portion is 40% of the APC rate, or $2,726.53.
- The sum of the adjusted labor amount and the non-labor portion is $6,563.58.
- Therefore, the Medicare facility specific amount is $6,563.58.
- The facility provider requested separate reimbursement for implantable items on the medical bill. Therefore, the Medicare facility specific amount is multiplied by 130% for a MAR of $8,532.65.

In accordance with 28 TAC §134.403, separate reimbursement for the surgical implantable items is calculated as follows:

Name from itemized statement	Item #	cost/unit	# units utilized	total cost	10% not to exceed $1000	Total allowed per implantable
FlexBand Twist 12	TWO12	$4,561.00	1	$4,561.00	$456.10	$5,017.10
Kit FiberTak Implant DX	AR-8991CP	$1,750.00	1	$1,750.00	$175.00	$1,925.00
Suture anchor DX Fibertak	AR-8991	$595.00	1	$595.00	$59.50	$654.50
Drill 4.55MM Pilot Tip	Not implantable	$497.00	xxx	$00.00	00.00	00.00
		Total:		$6,906.00	$690.60	**$7,596.60**

DWC finds that the requestor is entitled to separate reimbursement in the amount of $7,596.60 for the disputed surgical implantable items provided on July 18, 2024.

DWC finds that the total MAR for outpatient hospital services rendered on July 18, 2024, is $16,129.25.

A review of the submitted explanation of benefits finds that the insurance carrier previously reimbursed a total amount of $13,127.16 for outpatient hospital facility services rendered on the disputed date of service.

Therefore, DWC finds that additional reimbursement in the amount of $3,002.09 is due to the requestor for outpatient hospital services rendered on July 18, 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 additional reimbursement is due in the amount of $3,002.09.

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 Respondent, Indemnity Insurance Co. of North America, must remit to the Requestor, Baylor Orthopedic & Spine Hospital, $3,002.09 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	November 22, 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, 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.