



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Marcus Hayes, D.C.

Respondent Name

Zurich American Insurance Co

MFDR Tracking Number

M4-25-0635-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

November 15, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
August 5, 2024	97750-FC x 11 units	\$766.59	\$575.50

Requestor's Position

"The carrier has received these [this] claim twice and has failed to respond to any submission. Therefore, AI&FATC requests Creative Risk Solutions to remit the balance due of \$766.59 for DOS 08/05/2024."

Amount in Dispute: \$766.59

Respondents' Position

The Austin carrier representative for Zurich American Insurance Co is Flahive, Ogden & Latson. Flahive, Ogden & Latson was notified of this medical fee dispute on November 20, 2024. Rule §133.307(d)(1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division may base its decision on the available information. As of today, no response has been received from the carrier or its representative. We therefore base this decision on the information available as authorized under §133.307(d)(1).

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 §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 §134.210 applied to fee guidelines for division-specific services.
4. 28 TAC §134.225 sets out the fee guidelines for functional capacity evaluations.

Denial Reasons

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

- Explanation of Benefits (EOB) not available for review.
- Note: As of the date of this letter (October 1, 2024), no payment nor EOB has been received.

Issues

1. Is the requester entitled to reimbursement?

Findings

1. Dr. Hayes is seeking reimbursement for a functional capacity evaluation performed on August 5, 2024. The 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 requester 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:

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

- 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 4412 09.
- The Medicare participating amount for CPT code 97750 at this locality in 2024 is \$34.21 for the first unit, and \$24.83 for the subsequent ten units.
- The 2024 DWC Conversion Factor is 67.81.
- The 2024B Medicare Conversion Factor is 33.2875 on the disputed date of service.
- Using the above formula, DWC finds the MAR is \$69.69 for the first unit and \$50.58 for the ten subsequent units for a total of \$575.50.
- The respondent paid \$0.00.

- Reimbursement in the amount of \$575.50 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 \$575.50.

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 the respondent must remit to requester \$575.50 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

_____	_____	February 25, 2025
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 electrónico CompConnection@tdi.texas.gov.