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
Marco Britton, M.D.

Respondent Name
Znat Insurance Co.

MFDR Tracking Number
M4-25-1214-01

Carrier's Austin Representative
Box Number 47

DWC Date Received
February 5, 2025

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 10, 2024	Designated Doctor Examination 99456-W6-RE	$0.00	$0.00
May 10, 2024	95851	$73.32	$0.00
	Total	$73.32	$0.00

Requestor's Position

"Carrier is required to pay designated doctor exams... The current rules allow reimbursement... An original bill and reconsideration were submitted..."

Amount in Dispute: $73.32

Respondent's Position

"Zenith's review and findings for disputed code 95851: ... The provider billed 5 units for CPT code 95851(range of motion testing). The provider's documentation supports that Dr. Britton performed range of motion testing (95851) for the cervical spine(1 unit), lumbar spine (1 unit), and right lower extremity (1 unit). They billed at one unit for each segment of the spine (2 units). However, according to the CMS Practitioner Services MUE Table CPT code 95851 has '3' value. This value represents the maximum units of service that a practitioner would report under most circumstances on a single date of service. Therefore, 3 units were reimbursed for CPT code 95851."

Response Submitted By: The Zenith

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 §134.235 sets out the fee guidelines for examinations to determine extent of injury, return to work, and disability.
3. 28 TAC §134.240 sets out medical fee guidelines for designated doctor examinations.
4. Texas Labor Code (TLC) §408.0041 sets out provisions of Designated Doctor examinations under the Texas Workers' Compensation Act.
5. 28 TAC §134.203 sets fee guidelines for professional medical services.

Adjustment Reasons

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

- 350 TX - BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION OR APPEAL.
- 641 TX - THE MEDICALLY UNLIKELY EDITS (MUE) FROM CMS HAS BEEN APPLIED TO THIS PROCEDURE CODE.
- G15 XX - PRICING IS CALCULATED BASED ON THE MEDICAL PROFESSIONAL FEE SCHEDULE VALUE.
- 97 – Charge included in another Charge or Service.
- W3 - IN ACCORDANCE WITH TDI-DWC RULE 134.804, THIS BILL HAS BEEN IDENTIFIED AS A REQUEST FOR RECONSIDERATION.

Issues

1. What service is in dispute?
2. What rules apply to the reimbursement of the service in dispute?
3. Is the insurance carrier's denial reason of the disputed service supported?
4. Is the requestor entitled to additional reimbursement?

Findings

1. On the disputed date of service, the designated doctor, Marco Britton, M.D., billed for an examination to determine the injured worker's extent of compensable injury, as was ordered by DWC. The services rendered on May 10, 2024, were billed under CPT codes 99456-W6-RE,

and CPT code 95851 x 5 units. Per the explanation of benefits (EOB) document submitted, all CPT codes other than 95851 were reimbursed for charges in full.

Per the EOBs submitted, CPT code 95851 received reimbursement in a reduced amount and is the only service in dispute according to the DWC060, Request for Medical Fee Dispute Resolution (MFDR) form.

DWC finds that CPT code 95851 x 5 units is the only service in dispute.

2. On the disputed date of service, the requestor billed for designated doctor examination services under the procedure codes 99456-W6-RE x 1 unit and under 95851 x 5 units.

   The procedure code in dispute, 95851, is described as "a medical code used by medical professionals to describe the procedure of measuring the range of motion (ROM) in a single extremity or spine section, excluding the hand, and preparing a formal report."

   28 TAC §134.235, which applies to the billing and reimbursement of the services billed on the disputed date, states, "The following shall apply to return to work (RTW)/evaluation of medical care (EMC) examinations. When conducting a division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT code 99456 with modifier 'RE.' In either instance of whether maximum medical improvement/ impairment rating (MMI/IR) is performed or not, the reimbursement shall be $500 in accordance with §134.240 of this title and shall include division-required reports. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee."

   DWC finds that 28 TAC §134.203 applies to the reimbursement of procedure code 95851 and states in pertinent part, "(c) To determine the maximum allowable reimbursement (MAR) for professional services, system participants shall apply the Medicare payment policies with minimal modifications."

3. Per the EOB submitted, CPT code 95851 received reduced reimbursement due to CMS medically unlikely edits (MUE) applied. In its response statement, the insurance carrier asserts that CPT code 95851, having a MUE indicator value of "3", shall be reimbursed a maximum of 3 units per date of service.

   A review of the applicable CMS MUE table for 2024 finds that CPT code 95851 has a value of "3" which indicates that a maximum of three units per date of service is to be reported based on clinical benchmarks, unless medical necessity for additional units is supported by medical record documentation. A review of the documents submitted finds that additional units of CPT code 95851 is not supported in the medical record.

   In accordance with 28 TAC §134.203, Medicare payment policies shall be applied with minimal modifications to the disputed procedure code 95851. DWC finds that the insurance carrier's reimbursement reduction from 5 units of procedure code 95851 to 3 units, based on MUE is supported.

4. The requestor, Marco Britton, M.D., is seeking additional reimbursement in the amount of $73.32 for the range of motion testing portion of an examination rendered on May 10, 2024, for the purpose of determining the extent of the injured employee's compensable injury.

A review of the submitted medical documentation supports that Dr. Britton performed range of motion testing and measurements on one lower extremity and on two spine sections in his examination to determine the extent of injury for a total of three units of procedure code 95851. In accordance with 28 TAC §134.235 and per Medicare policy, Dr. Britton is entitled to separate reimbursement for three units of procedure code 95851.

A review of the EOBs submitted finds that the insurance carrier previously reimbursed the requestor for the disputed CPT code 95851 in the amount of $132.18. DWC will adjudicate the disputed code in accordance with 28 TAC §134.203 to determine if Dr. Britton is entitled to additional reimbursement.

DWC finds that 28 TAC §134.203 applies to the reimbursement of CPT code 95851. 28 TAC §134.203 states in pertinent part, "(c) To determine the maximum allowable reimbursement (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. For Surgery when performed in a facility setting, the established conversion factor to be applied is $66.32. (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year..."

- To determine the MAR the following formula is used:
  (DWC Conversion Factor/Medicare Conversion Factor) X Medicare Payment = MAR
- The 2024 DWC Conversion Factor is 67.81
- The 2024 Medicare Conversion Factor on the disputed date of service is $33.2875.
- DWC has determined that the service in dispute was entitled to reimbursement for 3 units of CPT code 95851 rendered on May 10, 2024.
- Per the medical bill submitted, the disputed service was rendered in zip code 76013; Medicare locality 28, "Ft. Worth."
- The Medicare participating amount for CPT code 95851 in locality 28 in 2024, is $21.63 per unit.
- Using the above formula, DWC finds the MAR for CPT code 95851 x 3 units rendered on the disputed date of service = $132.19.
- The insurance carrier paid $132.18 for the disputed service.
- Additional reimbursement is not recommended.

DWC finds that the requestor, Marco Britton, M.D., is entitled to additional reimbursement in the amount of $0.00 for 3 units of CPT code 95851 rendered on May 10, 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 not 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 in the amount of $0.00 for the disputed services.

Authorized Signature

		April 9, 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 electronico CompConnection@tdi.texas.gov.