



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requester Name**

Occu-Health Surgery Center

**Respondent Name**

American Casualty Co of Reading PA

**MFDR Tracking Number**

M4-26-0394-01

**Insurance Carrier's Austin Representative**

BOX 57 Continental Casualty Co

**DWC Date Received**

October 8, 2025

### Summary of Findings

Date(s) of Service	Disputed Services	Amount in Dispute	Amount Due
January 7, 2025	27331	\$36,227.00	\$0.00
<b>Total</b>		\$36,227.00	\$0.00

### Requester's Position

"Modifier 59 was correctly appended to CPT 27331 to indicate a distinct surgical service, performed at a different anatomic site and tissue plane from the patellar tendon repair. Per NCCI Policy Manual – Chapter IV, Section E(1), separate payment is warranted when procedures are performed through different incisions or on distinctly separate structures."

**Amount In Dispute:** \$36,227.00

### Respondent's Position

"Regarding CPT code 27331 which was billed for Date of Service January 7, 2025, Carrier has forwarded this to our bill review vendor, Stratacare, to be reaudited. To date, Carrier has not received a response from the URA regarding this matter. At this time, Carrier maintains any and all denials. Upon receipt of the URA's response, Carrier will supplement."

**Response Submitted By:** Law Offices of Brian J. Judis

## Findings and Decision

### Authority

This medical fee dispute is decided according to Texas Labor Code Section [413.031](#) and other applicable laws and rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

### Statutes and Rules

1. 28 Texas Administrative Code (TAC) Section [133.307](#) sets out the procedures for resolving medical fee disputes.
2. 28 TAC Section [134.402](#) sets out the guidelines for ambulatory surgical centers.

### Adjustment Reasons

The insurance carrier denied payment for the disputed services with the following reasons:

1. 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
2. P12 – Workers' compensation jurisdictional fee schedule adjustment.
3. 243 - THE CHARGE FOR THIS PROCEDURE WAS NOT PAID SINCE THE VALUE OF THIS PROCEDURE IS INCLUDED/BUNDLED WITHIN THE VALUE OF ANOTHER PROCEDURE PERFORMED.
4. 851 - THE ALLOWANCE WAS ADJUSTED IN ACCORDANCE WITH MULTIPLE PROCEDURE RULES AND/OR GUIDELINES.
5. 983 - CHARGE FOR THIS PROCEDURE EXCEEDS MEDICARE ASC SCHEDULE ALLOWANCE
6. 5211 – NURSE AUDIT HAS RESULTED IN AN ADJUSTED REIMBURSEMENT.

### Issues

1. What is DWC considering in this medical fee dispute?
2. What rules apply to the services rendered in this medical fee dispute?
3. Is modifier "59" appended to CPT code 27331 on the medical bill supported in this case?
4. Is the requester entitled to reimbursement for the service in dispute?

### Findings

1. This medical fee dispute involves surgical services rendered in a licensed ambulatory surgical center (ASC) on January 7, 2025.

On the disputed date of service, the requester billed CPT codes 27524, 27331, 76000. According to the submitted explanation of benefits (EOB), the insurance carrier allowed reduced payments for CPT codes 27524 and 76000 but denied payment for CPT code 27331.

DWC finds that, according to the submitted DWC Form-060, *Medical Fee Dispute Resolution Request* (DWC Form-060), the only CPT code in dispute and to be considered in this review

is CPT code 27331.

2. DWC finds that Rule 28 TAC Section 134.402, which sets out the guidelines for ambulatory surgical centers, applies to the reimbursement of the service in dispute.

DWC Rule 28 TAC Section 134.402(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), specifically [Medicare Claims Processing Manual Chapter 14 - Ambulatory Surgical Centers](#). Per section 30 beginning with the implementation of the 2008 revised payment system, the labor related adjustments to the ASC payment rates are based on the Core-Based Statistical Area (CBSA) methodology. Payment rates for most services are geographically adjusted using the pre-reclassification wage index values that CMS uses to pay non-acute providers. The adjustment for geographic wage variation will be made based on a 50 percent labor-related share.

DWC Rule 28 TAC Section 134.402(f) states in pertinent part "the reimbursement calculation used for establishing the MAR shall be the Medicare ASC reimbursement amount determined by applying the most recently adopted and effective Medicare Payment System Policies for Services Furnished in Ambulatory Surgical Centers and Outpatient Prospective Payment System reimbursement formula and factors as published annually in the Federal Register...

"(1) Reimbursement for non-device intensive procedures shall be:

- (A) The Medicare ASC facility reimbursement amount multiplied by 235 percent; or
- (B) if an ASC facility or surgical implant provider requests separate reimbursement for an implantable reimbursement for the non-device intensive procedure shall be the sum of:
  - (i) 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-on's per admission; and
  - (ii) the Medicare ASC facility reimbursement amount multiplied by 153 percent."

A review of the submitted medical bills finds that the facility did not bill for nor request separate reimbursement for surgical implants in this case.

3. A review of the submitted medical bill finds that on the disputed date of service, January 7, 2025, the requester billed for CPT codes 27524-RT, **27331-59-RT**, and 76000-26.

CPT code 27524 is described as "Open treatment of patellar fracture, with internal fixation and/or partial or complete patellectomy and soft tissue repair."

**CPT code 27331** is described as "Arthrotomy, knee; including **joint exploration**, biopsy, or removal of loose or foreign bodies."

DWC completed NCCI edits and found that: "procedure code **27331** has an unbundle relationship with history procedure code 27524. Review documentation to determine if a modifier is appropriate."

The requester appended CPT code 27331 with modifier "59" on the medical bill to indicate the procedure was distinct and separately identifiable from other procedures performed on the same date in the same session.

[Per Medicare Modifier 59 and X\(EPSU\) Fact Sheet](#), "Modifier 59 identifies procedures/services, other than E/M services and radiation treatment management, which are not normally reported together, but are appropriate under the circumstances.

**Documentation must support:**

A different session,  
Different procedure or surgery,  
Different site or organ system,  
Separate incision/excision,  
Separate lesion, or  
Separate injury (or area of injury in extensive injuries)...

**Do not report modifier 59** or other NCCI-associated modifiers **to bypass an edit unless documentation in the medical record supports its use."**

[Medicare NCCI 2025 Coding Policy Manual – Chapter 4](#) Section I(10) states, "Exploration of the surgical field is a standard surgical practice. Providers/suppliers shall not report a HCPCS/CPT code describing exploration of a surgical field with another HCPCS/CPT code describing a procedure in that surgical field."

A review of the submitted operative report finds that modifier "59" appended to CPT code 27331 on the medical bill is not supported as defined per the resources quoted above.

4. The requester, a licensed ambulatory surgical center, is seeking reimbursement in the amount of \$36,227.00 for CPT code 27331-59-RT rendered on January 7, 2025.

Because modifier "59" appended to CPT code 27331 is not supported in the operative report to override the existing NCCI edit conflict, separate reimbursement for CPT code 27331-59-RT is not recommended in this case.

DWC finds that the requester is not entitled to reimbursement for the disputed CPT code 27331-59-RT rendered on January 7, 2025, in an ASC setting.

### Conclusion

The outcome of this medical fee dispute is based on the evidence requester and the respondent presented at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requester has not established that reimbursement is due.

## **Order**

Under Texas Labor Code Sections [413.031](#) and [413.019](#), DWC has determined the requester is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

\_\_\_\_\_  
Signature

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

January 8, 2026

\_\_\_\_\_  
Date

## **Your Right to Appeal**

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC Section [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 800-252-7031, option three 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 this Medical Fee Dispute Resolution Findings and Decision** with any other required information listed in 28 TAC Section [141.1\(d\)](#).

Si prefiere hablar con una persona en español acerca de esta correspondencia, favor de llamar a 800-252-7031, opción tres o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).