



Medical Fee Dispute Resolution Findings and Decision

General Information

Requester Name

Occu-Health Surgery Center

Respondent Name

Old Republic

MFDR Tracking Number

M4-26-1006-01

Insurance Carrier's Austin Representative

BOX 44 White Espey PLLC

DWC Date Received

December 4, 2025

Summary of Findings

Date(s) of Service	Disputed Services	Amount in Dispute	Amount Due
August 29, 2025	24366-RT-ET	\$99,979.00	\$13,967.96
Total		\$99,979.00	\$13,967.96

Requester's Position

"The carrier denied all reimbursement for CPT 24366 on the basis of lack of preauthorization. This denial is not permissible because:

1. Texas law explicitly exempts emergency medical care from preauthorization, and
2. This case meets the statutory definition of a medical emergency, as documented extensively in the medical record...

"WHY THIS CASE MET THE STATUTORY EMERGENCY DEFINITION

A. Sudden Traumatic Onset with Severe Pain

The injury occurred from a fall at work with immediate severe elbow deformity and pain.

"Concentra documentation on 08/27/25 shows:

- Pain 8–9/10

- Mechanical block to rotation
- Large hemarthrosis
- Inability to use the arm
- Need for STAT specialist evaluation and emergent surgical care.”

Amount In Dispute: \$99,979.00

Respondent's Position

“The bill was denied on the basis of a failure to obtain preauthorization. The carrier's position remains consistent with its EOB.”

Response Submitted By: Flahive, Ogden & Latson

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 fee guidelines for ambulatory surgical centers.
3. [28 TAC Section 133.2](#) sets out general medical provisions and definitions.
4. [28 TAC Section 134.600](#) sets out the procedures for preauthorization requirements of healthcare services.

Adjustment Reasons

- 31065 - This service was not pre-authorized in conformance with TWCC Rule 134.600.
- 00663 – Reimbursement has been calculated based on the state guidelines.
- B13 & 90202 – Previously paid. Payment for this claim/service may have been provided in previous payment.
- 247 - A PAYMENT OR DENIAL HAS ALREADY BEEN RECOMMENDED FOR THIS SERVICE.

Issues

1. What is DWC considering in this medical fee dispute?
2. Is the insurance carrier’s denial based on lack of preauthorization supported?
3. What rules apply to the services in dispute?
4. Is the requester entitled to reimbursement for the service in dispute?

Findings

1. This medical fee dispute involves non-payment for a surgical service billed under CPT code 24366-RT-ET, rendered in a licensed ambulatory surgical center (ASC) on August 29, 2025.

The insurance carrier denied payment for the service due to lack of preauthorization.

The requester asserts in its position statement that the service was exempt from the preauthorization requirement because the surgery was emergent treatment for the acute injury.

DWC will review the submitted documentation and the applicable DWC Rules to determine whether the requester is entitled to reimbursement for the service in dispute rendered on August 29, 2025.

2. A review of the submitted explanation of benefits (EOB) finds that the insurance carrier denied reimbursement for surgical CPT code 24366-RT-ET, rendered in an ASC setting on August 29, 2025, based on lack of preauthorization.

DWC finds that 28 TAC Section 134.600 applies to the service in dispute, stating in pertinent part, "(p) Non-emergency health care requiring preauthorization includes: ... (2) outpatient surgical or ambulatory surgical services as defined in subsection (a) of this section." 28 TAC Section 134.600(c) also states, "The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care:

(1) listed in subsection (p) or (q) of this section only when the following situations occur:

(A) **an emergency**, as defined in Chapter 133 of this title (relating to General Medical Provisions);

(B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care;

(C) concurrent utilization review of any health care listed in subsection (q) of his section that was approved prior to providing the health care; or

(D) when ordered by the commissioner;"

DWC Rule 28 TAC Section 133.2 defines an emergency as follows: "(A) a medical emergency is the sudden onset of a medical condition manifested by acute symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could

reasonably be expected to result in:

- (i) placing the patient's health or bodily functions in serious jeopardy, or
- (ii) serious dysfunction of any body organ or part;"

After a review of all submitted documentation and the requester's position statement, DWC finds that the medical reports and the requester's explanation of the emergency condition support that the surgery in dispute, rendered on August 29, 2025, and billed under CPT code 24366, qualifies as emergency medical care in accordance with 28 TAC Section 133.2(A). Therefore, the disputed outpatient surgical service meets the emergency medical care exemption for the requirement of preauthorization.

DWC finds that the insurance carrier's reason for denial, based on lack of preauthorization, is not supported.

3. DWC finds that Rule 28 TAC §134.402 applies to the reimbursement of the service in dispute.

DWC Rule 28 TAC §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, 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 maximum allowable reimbursement (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.

Reimbursement shall be based on the fully implemented payment amount published in the Federal Register. Reimbursement for device intensive procedures shall be the sum of the ASC device portion and the ASC service portion multiplied by 235 percent.

A review of the submitted medical bills finds that the facility did not request separate reimbursement for surgical implantables in this case.

4. The requester, a licensed ambulatory surgical center, is seeking reimbursement in the amount of \$99,979.00 for surgical procedure code 24366-RT-ET rendered on August 29, 2025. Because the insurance carrier's denial reason is not supported, DWC will review and adjudicate the disputed CPT code 24366-RT-ET in accordance with applicable DWC Rules. CPT code 24366 is described as "Arthroplasty, radial head; with implant; Surgery to replace the damaged end of the elbow joint with an artificial part." The requester appended the disputed procedure code with modifier "RT" to indicate the anatomical side of the body and with modifier "ET" to indicate the procedure was rendered as emergency treatment. Procedure code 24366 has a payment indicator of J8 indicating a device intensive procedure paid at an adjusted rate.

The following formula is used to calculate the MAR:

Step 1 calculating the **device portion** of the procedure:

Per 28 TAC §134.402 (b)(2), "ASC device portion" means the portion of the ASC payment rate that represents the cost of the implantable device and is calculated by applying the Centers for Medicare and Medicaid Services (CMS) Outpatient Prospective Payment System (OPPS) device offset percentage to the OPPS payment rate. The device offset percentage information can be found in the [CMS OPPS Addendum P](#).

- The national reimbursement is found in Addendum B for National Hospital Outpatient Prospective Payment System (OPPS). The rate for procedure code 24366 on the applicable date of service = \$12,866.82.
- The device dependent APC offset percentage for National Hospital OPPS in Addendum P for code 24366 on the applicable date of service is 50.67%.
- Multiply the above $\$12,866.82 \times 50.67\% = \$6,519.618$, the **device portion** of the procedure.

Step 2 calculating the **service portion** of the procedure:

Per 28 TAC §134.402 (b)(3), "ASC service portion" means the Medicare ASC payment rate less the device portion.

- Per Addendum AA, the Medicare ASC reimbursement rate for code 24366 for CY 2025 is \$9,598.42.
- This number is divided by 2 = \$4,799.21.
- This number multiplied by the CBSA for the Harris County, Texas region of 1.0189 = \$4,889.915.

- The sum of these two, \$4,799.21 + \$4,889.915, is the geographically adjusted Medicare (MC) ASC reimbursement \$9,689.125.
- The service portion is found by subtracting the device portion \$6,519.618 from the geographically adjusted MC ASC rate \$9,689.125 = \$3,169.507.
- Multiply the service portion by the DWC payment adjustment of 235% = \$7,448.341, the **final DWC service portion** amount.

Step 3 calculating the **MAR**:

- The MAR is determined by adding the sum of the device portion \$6,519.618 and the final DWC service portion \$7,448.341= \$13,967.959.

DWC finds the MAR for the disputed CPT code 24366-RT-ET, rendered on August 29, 2025, is \$13,967.96. The insurance carrier paid \$0.00. Reimbursement in the amount of \$13,967.96 is recommended.

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 established that reimbursement is due.

Order

Under Texas Labor Code Sections [413.031](#) and [413.019](#), DWC has determined the requester is entitled to reimbursement for the disputed services. It is ordered that Old Republic must remit to Occu-Health Surgery Center \$13,967.96 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC Section [134.130](#).

Authorized Signature

		January 14, 2026
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 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. 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.

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.