



# HEALTH CARE TECHNICAL UPDATE

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### **The Medicare "Cap" on Physical/Occupational Therapy and Speech Language Pathology Does Not Apply to Texas Workers' Compensation**

Based on provisions contained in the Balanced Budget Act of 1997, Medicare is scheduled to impose monetary limits on physical and occupational therapy and speech language pathology services provided on or after January 1, 2006.

The Medical Fee Guideline, Rule 134.202(a)(4), states that the provisions of the Texas Workers' Compensation Act and the rules of the Division of Workers' Compensation take precedence over any conflicting provision used in the Medicare program. According to Section §408.021 of the Texas Workers' Compensation Act, injured workers are entitled to all reasonable medical care when and as needed that cures or relieves the effects of their compensable injury, promotes recovery, or enhances their ability to return to work.

Claims for physical and occupational therapy and speech language pathology must not be denied payment because they have exceeded the "cap" Medicare has placed on these services effective January 1, 2006.

### **Certified Workers' Compensation Networks Information Resources**

The 79<sup>th</sup> Session Texas Legislature passed House Bill 7 (HB 7), effective September 1, 2005. This wide-sweeping reform bill provided for the formation of workers' compensation health care networks (WC networks) certified by the Texas Department of Insurance (TDI).

To accommodate WC networks, HB 7 added Chapter 1305, the "Workers' Compensation Health Care Network Act" (Act) to the Texas Insurance Code and modified multiple sections of the Texas Labor Code. Subsequently, TDI adopted workers' compensation network rules to implement the Act.

Information regarding WC networks is available online at [www.tdi.state.tx.us/wc/wcnet/index.html](http://www.tdi.state.tx.us/wc/wcnet/index.html). To visit this site from the TDI Home Page, go to [www.tdi.state.tx.us](http://www.tdi.state.tx.us) and click on "Workers' Comp Health Care Networks" in the upper left-hand corner. This site contains links to WC network news, rules, FAQs, forms, and more. A workshop audio/video and accompanying PowerPoint slides regarding network qualifications, configuration, and certification are also available.

To view the new WC network rules, visit [www.tdi.state.tx.us/rules/1115a-059.html](http://www.tdi.state.tx.us/rules/1115a-059.html). The meeting minutes, agendas, and members of the Workers' Compensation Networks Informal Working Group are available at [www.tdi.state.tx.us/consumer/wcnetiwg.html](http://www.tdi.state.tx.us/consumer/wcnetiwg.html).

For questions regarding certified WC healthcare networks, please email [wcnet@tdi.state.tx.us](mailto:wcnet@tdi.state.tx.us) or contact TDI in Austin at (512) 322-4266.

## **Billing and Reimbursement for Psychiatric Services**

The current, effective fee guideline for professional medical services in the Texas workers' compensation system is the 2002 Medical Fee Guideline (MFG), Rule 134.202. The 1996 MFG is no longer in effect and should not be referenced. As a result, current procedural terminology (CPT) codes that are old, deleted, or no longer in effect are not valid under the current 2002 MFG. When billing for psychiatric services, health care providers should use current CPT codes such as 90801 and *not* deleted psychiatric CPT codes, such as 90820, 90825, 90830, etc., to minimize the risk of not being reimbursed for services performed.

A number of timed CPT codes have been revised to eliminate the "per minute" or "per hour" specification. For example, the diagnostic psychiatric interview, CPT code 90801, is reimbursed under the 2002 MFG as a single unit, regardless of the amount of time spent on a diagnostic psychiatric interview. Likewise, biofeedback, CPT code 90901, formerly a timed procedure, is reimbursed as a single unit, regardless of the amount of time spent on biofeedback. These changes are the result of updates made by the American Medical Association to the CPT codes.

According to the Medicare Physician Fee Schedule Data Base, CPT codes with a "B" status code are bundled codes. This means that these codes are not reimbursed separately. For example, 90885 and 90889 are bundled codes for preparation or review of medical diagnostic reports prepared for physicians, agencies, or insurance carriers.

In conclusion, correct coding in accordance with the current 2002 MFG and Medicare Physician Fee Schedule Data Base should help ensure appropriate reimbursement for health care services and reduce the potential of the claim becoming a medical dispute.

## **Using TXCOMP to Apply for or Renew ADL Certification**

To provide health care to an injured worker whose employer does not have a contract with a certified workers' compensation network, a doctor is required to be on the Division of Workers' Compensation (DWC) Approved Doctor List (ADL). However, this requirement does not apply to emergency or immediate post-injury medical care, as defined in Rules 133.1(a)(7) and 180.1(17) and (19). Also, in some cases, a non-ADL doctor may receive approval for a temporary case-by-case exception to treat a particular injured worker.

Doctors may apply for or renew ADL certification online through the TXCOMP Healthcare Provider System (TXCOMP) at [www.txcomp.tdi.state.tx.us](http://www.txcomp.tdi.state.tx.us). The doctor needs to complete the ADL training and submit the DWC application for a Certificate of Registration. Since a user ID and password are required to submit this application, doctors who have never been on the ADL will need to register to obtain a user ID and password. Below are step-by-step instructions to apply for or renew ADL certification, register for or retrieve a user ID or password, and check ADL status.

### **To register for a user ID and password:**

- A. In TXCOMP, hover over "Main Menu" and select "Doctor Access Request."
- B. After you complete and submit this form online, you will receive a System Access Request Form (SARF) via email.
- C. Print, read, initial, and sign the SARF and fax it to the number on the form.
- D. The doctor will receive an email once the account has been activated.

### **To apply for, renew, or update ADL certification, complete training and submit application:**

- A. To complete the ADL online training:
  1. In TXCOMP, click on "How to Register for the ADL" (upper left).
  2. Click in the 3<sup>rd</sup> box on the ADL level desired (Level 1, less than 18 patients per calendar year; Level 2, greater than 18 patients per calendar year).
  3. Complete the training and make a note of the training version number and training completion date to record on the DWC application.

B. To submit the DWC application:

1. Click “Log on” tab on the top bar and enter the user’s ID and password.
2. Hover over “Practitioner” and select “Submit DWC Application.”
3. Select ADL level desired (Level 1, less than 18 patients per calendar year; Level 2, greater than 18 patients per calendar year).
4. Follow the “Application Submission Wizard” instructions to complete the form, including the required “Financial Disclosure Summary.” ADL doctors are required to enter updates or changes to their address, phone number, email address, and/or financial disclosure information within 30 days of any change.

To retrieve a forgotten user ID or password:

- A. To retrieve a forgotten **user ID**, call (888) 489-2667, Option 5, to have a DWC representative look it up. If you also need to retrieve a forgotten password, request the DWC representative to verify/update your email address in TXCOMP.
- B. To retrieve a forgotten **password**, click the “Log on” tab on the top bar, enter the user’s ID, scroll down, and click on “Forgot Password” and a temporary password will be emailed.

To check ADL status:

- A. In TXCOMP, hover over “Main Menu” and select “Locate Doctor.”
- B. Enter the professional license number, name, or other doctor search criteria and click on the “Search” button at the bottom of the screen.
- C. On “Health Provider Detail Page,” scroll down to “Active Division Lists” and “Temporary Exception Status” to view current ADL status.

For further assistance using TXCOMP to obtain or renew ADL certification, call (888) 489-2667, Option 1, and a DWC representative will be ready to assist you.

**Note:** By statute, ADL status will continue to be required for *non-network doctors in the Texas workers’ compensation system*\* until September 1, 2007; or earlier, if the DWC Commissioner decides to waive the ADL registration requirement prior to their scheduled expiration on September 1, 2007. (\*A *non-network doctor in the Texas workers’ compensation system* is a doctor who provides health care to an injured worker whose employer does not have a contract with a certified workers’ compensation network.)

## **Financial Disclosure by ADL Doctors**

The purpose of the financial disclosure requirement for Approved Doctor List (ADL) doctors is to reduce the likelihood of medically unnecessary referrals, supplies, or services and to help the Division of Workers’ Compensation (DWC) learn whether any particular types of financial arrangements relate to higher claim costs. Financial disclosure is not intended to find out how much a doctor earns. It is *not* a disclosure of income or earnings. Rather, the disclosure\* of financial interests is the direct or indirect compensation arrangements or ownership/investment interests between the doctor (or an immediate family member of the doctor) and another health care provider.

All doctors applying for the ADL must complete the “Financial Disclosure” section of the online DWC application for ADL certification registration. In addition, ADL doctors must disclose, **within 30 days of any referrals or changes**, any referrals by the ADL doctor to another health care provider in which the doctor has a financial interest and any changes to the doctor’s reported financial interests.

- \* Disclosure requires names and specific contact, tax, and license information for the ADL doctor and each provider or facility in which the doctor has a financial interest, as well as the nature, percentage, and relationship of the financial interest and type of compensation arrangement.

Unlike federal law, the Texas Workers’ Compensation Act does not prohibit referrals by ADL doctors to practitioners or facilities in which they have a financial interest. In other words, the financial disclosure information provided in the DWC application for ADL certification registration is *not* used, in and of itself, to disqualify doctors from ADL certification. Instead, it is used as an aid in monitoring the quality and cost of providing health care in the workers’ compensation system in Texas.

Below are some examples of types of compensation arrangements that may financially benefit the doctor, directly or indirectly, and that must be disclosed:

A. **A direct or indirect employment interest:**

1. Example 1: An ADL doctor employed by CareAll Healthcare refers an injured worker to CareAll Healthcare.
2. Example 2: An ADL doctor whose sister-in-law is employed by Discovery Imaging refers an injured worker to Discovery Imaging.
3. Example 3: The above ADL doctor who is employed by CareAll Healthcare refers an injured worker to a physical therapy clinic owned by CareAll.

B. **A direct or indirect ownership or investment interest:**

1. Example 1: An ADL doctor who has a 3 percent interest in CareAll Healthcare refers an injured worker to CareAll Healthcare.
2. Example 2: An ADL doctor whose brother owns stock in Discovery Imaging refers an injured worker to Discovery Imaging.
3. Example 3: The ADL doctor above who has a 3 percent interest in CareAll Healthcare refers an injured worker to a work hardening clinic with whom the doctor's wife has a contractual compensation arrangement.

Consequently, failure to provide accurate, complete, and up-to-date financial disclosure may subject the doctor to **“forfeiture of the right to reimbursement for any services rendered on the claim during the period of noncompliance, regardless of whether the circumstances of the services themselves were subject to disclosure, and regardless of whether the services were medically necessary”** [Rule 180.24].

In summary, financial interests must be disclosed during the ADL application process and within 30 days of any referral or change. An ADL doctor's financial interests include both direct and indirect compensation arrangements or ownership/investment interests that benefit the ADL doctor *or* a member of the ADL doctor's immediate family *or* a health care provider that employs the ADL doctor.

Pursuant to Section 408.023 of the Texas Labor Code, financial disclosure requirements will continue to apply to doctors even after the ADL registration requirements expire on September 1, 2007. It is important to note that the financial disclosure requirements apply to both non-network and network doctors.

**To verify and update your financial disclosure information:**

1. Go to TXCOMP at [www.txcomp.tdi.state.tx.us](http://www.txcomp.tdi.state.tx.us).
2. Click the “Log on” tab on the top navigation bar and enter your user ID and password to bring up your “Individual Profile.”
3. Click on the “Financial Disclosures” button to verify and update your financial disclosures.

For specific legal requirements, please refer to Rule 180.24 at [info.sos.state.tx.us/pub/plsql/readtac\\$ext.TacPage?sl=R&app=9&p\\_dir=&p\\_rloc=&p\\_floc=&p\\_ploc=&pg=1&p\\_tac=&ti=28&pt=2&ch=180&rl=24](http://info.sos.state.tx.us/pub/plsql/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_floc=&p_ploc=&pg=1&p_tac=&ti=28&pt=2&ch=180&rl=24). **In the event of any differences between the rule and the statements in this article, the rule applies.**

For additional information about the financial disclosure requirements for ADL doctors and other workers' compensation health care practitioners, see the Doctor Training Module, Level 2, Chapter 7 at [www.tdi.state.tx.us/wc/adltraining/ch7.html](http://www.tdi.state.tx.us/wc/adltraining/ch7.html) and “Fast Facts: Financial Disclosure” at [www.tdi.state.tx.us/wc/dwc/divisions/fastfacts](http://www.tdi.state.tx.us/wc/dwc/divisions/fastfacts). For further assistance, contact a DWC representative at (888) 489-2667, Option 1.



## **Billing and Reimbursement of Chiropractic Manipulative Treatment and Evaluation and Management**

The current procedural terminology (CPT) codes for chiropractic manipulative treatment (CMT) include the patient assessment as part of the CMT. A health care provider may *not* separately bill an evaluation and management (E/M) service using the –25 modifier *except* when a patient’s condition clearly requires a substantial, independently identifiable E/M service beyond the preservice and postservice care normally provided as part of the CMT.

When an additional E/M service is required for the same symptoms or condition as the basic CMT, separate diagnoses are *not* required for billing. This applies even when the CMT and E/M services are provided on the same date. Any specific CMT (i.e., one with a specific CPT code) performed on either the same or a later date as any E/M services needs to be reported separately. Also, the health care provider should include with the E/M bill all documentation necessary to sufficiently justify the appropriateness of the E/M service.

Additionally, CMT codes are *not* included in the range of physical medicine and rehabilitation CPT codes and therefore do *not* require preauthorization.

## **Billing and Reimbursement of CPT Code 98943**

The Centers for Medicare & Medicaid Services (CMS) allows chiropractors to be reimbursed *only* for correction of spinal subluxation, current procedural terminology (CPT) codes 98940, 98941, and 98942. CMS does *not* allow reimbursement for extraspinal manipulation, CPT 98943. Therefore, TrailBlazer Health, the CMS Part B carrier for Texas, does not assign a reimbursement value for CPT 98943 and their fee calculator responds with “no record found.”

The Division of Workers’ Compensation (DWC) Medical Fee Guideline (MFG) allows for chiropractors in Texas to be reimbursed for extraspinal manipulation (CPT 98943), as well as for spinal subluxation (CPT 98940, 98941, and 98942). This divergence from CMS policy is stated in the MFG, Rule 134.202(a)(3) as follows:

“Notwithstanding Centers for Medicare and Medicaid Services (CMS) payment policies, chiropractors may be reimbursed for services provided within the scope of their practice act.”

By definition, CPT 98943 is *not* a “timed” code but *does* include “one or more regions,” these being the head, lower extremities, upper extremities, rib cage, and abdomen. Therefore, only one unit per day of CPT 98943 may be billed and reimbursed, regardless of how many regions were manipulated or how much time was spent. Please note that CPT 98943 does *not* require preauthorization because it is not in the range of physical medicine and rehabilitation codes that do require preauthorization.

To reimburse health care providers for CPT codes such as 98943 that have no specific, established CMS or DWC reimbursement values, subsection 134.202(c)(6) of the MFG requires carriers to:

“...assign a relative value, which may be based on nationally recognized published relative value studies, published [DWC] medical dispute decisions, and values assigned for services involving similar work and resource commitments.”



## **Preauthorization NOT Required for CMT Codes Under Rule 134.600(h)(15)**

Chiropractic manipulative treatment (CMT) codes are *not* included in the range of physical medicine and rehabilitation Current Procedural Terminology (CPT) codes. Therefore, the CMT codes do *not* require preauthorization under the emergency preauthorization rule, section 134.600(h)(15).

## **DWC “Fast Facts” Information Sheets**

To assist system participants with various workers’ compensation topics, the Division of Workers’ Compensation (DWC) Medical Benefits Services has developed several informational documents called “Fast Facts.” These Fast Facts provide specific information on various workers’ compensation topics in a question and answer format.

The Fast Facts that have been developed and posted on the DWC website cover the following topics:

- Financial Disclosure (for doctors applying to the ADL)
- Medical Forms
- Pharmacy
- Preauthorization
- Prospective Review of Medical Care Not Requiring Preauthorization

The Fast Facts may be accessed through the DWC home page at [www.tdi.state.tx.us/wc/indexwc.html](http://www.tdi.state.tx.us/wc/indexwc.html) by selecting “About the Division” and “Fast Facts” under the Medical Review header. The Fast Facts may also be accessed directly at [www.tdi.state.tx.us/wc/dwc/divisions/medrev.html#fastfacts](http://www.tdi.state.tx.us/wc/dwc/divisions/medrev.html#fastfacts).

