



# Texas Department of Insurance

## Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645  
512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

### MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

#### GENERAL INFORMATION

**Requestor Name**

WILLIAM J. KOWALSKI, DC

**Respondent Name**

LIBERTY MUTUAL FIRE INSURANCE

**MFDR Tracking Number**

M4-12-2010-01

**Carrier's Austin Representative**

Box Number 01

**MFDR Date Received**

FEBRUARY 7, 2012

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "Impairment rating requested by carrier."

**Amount in Dispute:** \$375.00

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "this is a California jurisdiction claim and the Texas Department of Insurance/Division Of Workers' Compensation does not have jurisdiction over California disputes."

**Response Submitted by:** Liberty Mutual Insurance Co.

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 30, 2011	CPT Code 99499	\$375.00	\$0.00

#### FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- Texas Labor Code §406.075, effective September 1, 1993, prohibits claims from other workers compensation jurisdictions from seeking benefit in the Texas Workers Compensation.

#### Issues

Is the requestor entitled to reimbursement?

#### Findings

On February 7, 2012, the requestor, William J. Kowalski, DC, sought medical fee dispute resolution under 28 Texas Administrative Code §133.307. The requestor is seeking reimbursement of \$375.00 for services rendered on September 30, 2011.

The respondent, Liberty Mutual Insurance Co., submitted a response to this request for medical fee dispute

resolution on February 21, 2012. The respondent stated “this is a California jurisdiction claim and the Texas Department of Insurance/Division Of Workers’ Compensation does not have jurisdiction over California disputes.”

Texas Labor Code §406.075(a) states “An injured employee who elects to pursue the employee’s remedy under the workers’ compensation laws of another jurisdiction and who recovers benefits under those laws may not recover under this subtitle.” Because the claim is under California’s Workers’ Compensation jurisdiction, the requestor is prohibited from seeking recovery under the Texas Workers Compensation per Texas Labor Code §406.075(a). As a result, reimbursement cannot be recommended.

**Conclusion**

For the reasons stated above, the Division finds that reimbursement cannot be recommended.

**Authorized Signature**

\_\_\_\_\_  
Signature

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

10/30/2015  
\_\_\_\_\_  
Date

***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.**

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**