



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

TOM MCMURRAY
PO BOX 121589
ARLINGTON TX76012

Respondent Name

NEW HAMPSHIRE INSURANCE CO

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-13-1347-01

MFDR Date Received

September 17, 2012

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This request was made in the form and manner prescribed by the Division. The report of the designated doctor is given presumptive weight regarding the issue(s) in question and/or dispute. The designated examination was requested to resolve question(s) about the following:

Impairment caused by the employee's compensable injury Attainment of maximum medical improvement

In this case the reimbursement is not according to the Rule. The Designated Doctor may conduct two distinct exams in the same day. He shall be reimbursed \$350.00 per exams in the same day. He shall be reimbursed \$3500 per the exam. The procedural guidance for bundling of codes does not apply to Designated Doctors exams."

Amount in Dispute: \$115.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This is a medical fee dispute concerning a designated doctor evaluation performed on September 17, 2012. The issues set for the exam were maximum medical improvement, impairment rating, and the ability of the employee to return to work.

Dr. McMurray determined that Claimant was at MMI with "no impairment impairment" and addressed return to work ability. The Requestor billed \$500 for the MMI exam, \$500 for the Return to Work Exam and \$15 for completion of the DWC-73. Carrier submission misstates that the IR exam was done by a DRE methodology. Rather, the evaluation physician found that there was "no impairment" and did not conduct a separate IR evaluation for the purposes of reimbursement. See 28 TAC 134.204(j)(2)(B). The "no permanent impairment" finding is noted both Dr. McMurray's DWC-69 and his narrative report. The MMI examination should be reimbursed at \$350.00 under 28 TAC 134.204(j)(3)(C).

Because the impairment-rating finding was "no permanent impairment" there is no reimbursement for an impairment for an impairment rating evaluation pursuant to 28 TAC 134.204(j)(2)(B)."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
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September 17, 2012	CPT Code 99456-W5-WP	\$115.00	\$0.00
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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

1. 28 Texas Administrative Code §133.307 amended to be effective May 31, 2012, *37 Texas Register* 3833, applicable to medical fee dispute resolution requests filed on or after June 1, 2012, sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.204 sets out the fee guideline for workers' compensation specific services on or after March 1, 2008.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated October 08, 2012

- 144 – Incentive adjustment, e.g. preferred product/service
- W1 – Workers' compensation jurisdictional fee schedule adjustment

Explanation of benefits dated October 08, 2012

- 18 – Duplicate claim/service. This change effective 1/1/2013: Exact duplicate claim/service

Explanation of benefits dated October 15, 2012

- 18 – Duplicate claim/service. This change effective 1/1/2013: Exact duplicate claim/service

Explanation of benefits dated October 30, 2012

- 18 – Duplicate claim/service. This change effective 1/1/2013: Exact duplicate claim/service

Explanation of benefits dated November 05, 2012

- Duplicate claim/service. This change effective 1/1/2013: Exact duplicate claim/service

Issues

1. Is the requestor entitled to reimbursement for the disputed services under 28 Texas Administrative Code §134.204?

Findings

1. Review of the submitted documentation finds a EES-14 with the following examinations checked off for a examination on September 17, 2012 for Maximum Medical Improvement (MMI), Impairment Rating (IR) and Return to Work (RTW), DWC-32 (Request for Designated Doctor Examination) submitted by the insurance carrier to address/determine Maximum Medical Improvement (MMI), Impairment Rating (IR) and Return to Work (RTW), DWC-69 Report of Medical Evaluation indicating MMI has been reached on August 3, 2012 and in part IV the examining doctor marked box a which states "I certify that the employee does not have any permanent Impairment as a result of the compensable injury" and DWC-73 Texas Workers Compensation Work Status Report. In further Review of the Report of Medical Evaluation (RME) does indicate the examining doctor addressed Maximum Medical Improvement (MMI), Impairment Rating (IR) with no diagnosis related impairment that would be rated as no permanent impairment would be assigned and Return to Work (RTW). The examining doctor billed the disputed services with CPT Code 99456-W5-WP in the amount of \$500.00 with one unit billed. Reimbursement in accordance with 28 Texas Administrative Code states "(j) Maximum Medical Improvement and/or Impairment Rating (MMI/IR) examinations shall be billed and reimbursed as follows: (1) The total MAR for an MMI/IR examination shall be equal to the MMI evaluation reimbursement plus the reimbursement for the body area(s) evaluated for the assignment of an IR, (B) If the examining doctor determines MMI has been reached and there is no permanent impairment because the injury was sufficiently minor, an IR evaluation is not warranted and only the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this subsection, (3) The following applies for billing and

reimbursement of an MMI evaluation, (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350. As stated above the total MAR for CPT Code 99456-W5-WP is \$350.00 as the injured worker reached MMI but there was no permanent impairment according to the submitted documentation. Additional reimbursement is not recommended.

2. The respondent issued payment in the amount of \$900.00. Based upon the documentation submitted, no additional reimbursement is recommended.

Conclusion

For the reasons stated above, the division finds that no additional reimbursement is due.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

March 17, 2014
Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request 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 §141.1(d).

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