



**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**

MARCUS P. HAYES, DC

**Respondent Name**

TEXAS MUTUAL INSURANCE CO

**MFDR Tracking Number**

M4-13-2182-01

**Carrier's Austin Representative**

Box Number 54

**MFDR Date Received**

APRIL 30, 2013

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "As stated in the request for reconsideration, the treating doctor, Donald Dutra, MD, did not agree with the findings of the previous DD's determination. In order to submit a letter detailing why and how he disagrees with DD's findings, he needed to submit medical records to support his opinion of the correct MMI and/or IR and complete a DWC-069 indicating his opinion of the correct MMI and/or IR. **Since Dr. Dutra is not certified to perform MMI/IR exams, it was medically necessary to refer the claimant to a doctor certified to perform this particular evaluation.**"

**Amount in Dispute:** \$800.00

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The requestor on 2/5/13 provided an alternative MMI date and IR of the claimant then billed Texas Mutual for this. Texas Mutual declined to issue payment as the original MMI date and IR by the designated doctor was not disputed within the first 90 days."

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

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 5, 2013	CPT Code 99456-W5-WP Designated Doctor Evaluation for MMI/IR	\$800.00	\$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.
- 28 Texas Administrative Code §130.12, effective March 14, 2004, sets a deadline for disputing MMI/IR certification.
- 28 Texas Administrative Code §134.204, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
- The services in dispute were reduced/denied by the respondent with the following reason codes:
  - CAC-W1-Workers compensation state fee schedule adjustment.

- 743-MMI/IR has been determined by a designated doctor, subsequent exams for MMI/IR not appropriate.
- 724-No additional payment after a reconsideration of services.
- 892-Denied in accordance with DWC rules and/or medical fee guideline including CPT code descriptions/instructions.
- CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

**Issues**

Does the documentation support initial certification of MMI/IR was appealed timely?

**Findings**

28 Texas Administrative Code §130.12(b) states “A first MMI/IR certification must be disputed within 90 days of delivery of written notice through verifiable means, including IRs related to EOI disputes. The notice must contain a copy of a valid Form TWCC 69, Report of Medical Evaluation, as described in subsection (c). The 90-day period begins on the day after the written notice is delivered to the party wishing to dispute a certification of MMI or an IR assignment, or both. The 90-day period may not be extended.”

The August 20, 2012 MMI/IR Designated Doctor examination found that claimant had reached MMI with a 7% IR. This report, DWC-69, was received by the claimant’s attorney at The Spencer Law Firm on August 30, 2012.

The respondent contends that payment is not due because “the original MMI date and IR by the designated doctor was not disputed within the first 90 days.”

A review of Division records does not support that the August 20, 2012 MMI/IR Designated Doctor examination was disputed. Furthermore, the requestor did not submit any documentation to support that they disputed the MMI/IR Designated Doctor findings within 90 days in accordance with 28 Texas Administrative Code §130.12(b). Therefore, the February 5, 2013 MMI/IR examination was past the deadline. As a result, reimbursement is not recommended.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

***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	11/05/2014 Date
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## **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.**