



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

THOMAS J. PFEIL, JR., MD

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-13-3098-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

JULY 23, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "An original bill and a reconsideration were submitted, the current rules allow reimbursement."

Amount in Dispute: \$1,675.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Texas Mutual maintains its position the bill was untimely."

Response Submitted by: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 18, 2012	CPT Code 99456-W5-WP (X2) Designated Doctor Evaluation	\$800.00	\$800.00
	CPT Code 99456-W6-RE Extent of Injury Evaluation	\$500.00	\$500.00
	CPT Code 99456-W7-RE Liability/Compensability Evaluation	\$250.00	\$250.00
	CPT Code 99456-W8-RE Return to Work Evaluation	\$125.00	\$125.00
TOTAL		\$1,675.00	\$1,675.00

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

1. Texas Labor Code §408.027, effective September 1, 2007, sets out the rules for timely submission of a claim by a health care provider.
2. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.

3. 28 Texas Administrative Code §134.204, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
4. 28 Texas Administrative Code §102.4(h), effective May 1, 2005, sets out rules to determine when written documentation was sent.
5. The services in dispute were reduced / denied by the respondent with the following reason codes:
 - CAC-29-The time limit for filing has expired.
 - 724-No additional payment after a reconsideration of services.
 - 731-Per 133.20 provider shall not submit a medical bill later than the 95th day after the date the service, for services on or after 9/1/05.
 - CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Did the requestor timely file the medical bill per Section 408.027(a)?
2. Is the requestor entitled to reimbursement for 99456-W5-WP?
3. Is the requestor entitled to reimbursement for 99456-RE-W6, 99456-REW7 and 99456-RE-W8?

Findings

1. According to the explanation of benefits, the respondent denied reimbursement for the disputed Designated Doctor Evaluation based upon reason code "CAC-29."
 - Texas Labor Code §408.027(a) states "A health care provider shall submit a claim for payment to the insurance carrier not later than the 95th day after the date on which the health care services are provided to the injured employee. Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."
 - 28 Texas Administrative Code §102.4(h), states "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:
 - (1) the date received, if sent by fax, personal delivery or electronic transmission or,
 - (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday."

The disputed date of service is December 18, 2012. The requestor submitted a fax confirmation report dated December 27, 2012 that supports bill was sent timely per Texas Labor Code §408.027(a).

2. On the disputed date of service, the requestor billed CPT codes 99456-W5-WP.
 - 28 Texas Administrative Code §134.204(i)(1)(A) states "The following shall apply to Designated Doctor Examinations. (1) Designated Doctors shall perform examinations in accordance with Labor Code §§408.004, 408.0041 and 408.151 and Division rules, and shall be billed and reimbursed as follows: (A) Impairment caused by the compensable injury shall be billed and reimbursed in accordance with subsection (j) of this section, and the use of the additional modifier "W5" is the first modifier to be applied when performed by a designated doctor"

A review of the submitted medical billing finds that the requestor billed modifier "W5" appended to CPT code 99456.

- 28 Texas Administrative Code §134.204(j)(3) states "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."

The requestor billed CPT code 99456 because the examination was performed by a designated doctor.

- Per 28 Texas Administrative Code §134.204(j)(4)(C)(iii) states "If the examining doctor performs the MMI examination and the IR testing of the musculoskeletal body area(s), the examining doctor shall bill using the appropriate MMI CPT code with modifier "WP." Reimbursement shall be 100 percent of the total MAR."

- 28 Texas Administrative Code §134.204(n)(18) states “The following Division Modifiers shall be used by HCPs billing professional medical services for correct coding, reporting, billing, and reimbursement of the procedure codes. The “WP” modifier is defined as “Whole Procedure--This modifier shall be added to the CPT code when both the professional and technical components of a procedure are performed by a single HCP.”

A review of the requestor’s billing finds that the “WP” modifier was appended to CPT code 99456 to designate that the provider had performed the MMI examination and the IR testing.

The maximum allowable reimbursement (MAR) for CPT code 99456-W5-WP is:

- 28 Texas Administrative Code §134.204(j)(1) states “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.
- 28 Texas Administrative Code §134.204(j)(4)(C) states “For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas.”
- 28 Texas Administrative Code §134.204(j)(4)(C)(ii) states “The MAR for musculoskeletal body areas shall be as follows.
 - (II) If full physical evaluation, with range of motion, is performed:
 - (-a-) \$300 for the first musculoskeletal body area; and
 - (-b-) \$150 for each additional musculoskeletal body area.”

The requestor billed for MMI/IR of two body areas. A review of the Designated Doctor report finds that a full evaluation with range of motion was performed on the cervical spine and shoulder; therefore, the MAR is \$450.00 per 28 Texas Administrative Code §134.204(j)(4)(C)(ii)(II)(a)(b). The total allowable for the impairment rating is \$450.00.

Per 28 Texas Administrative Code §134.204(j)(3)(C) the requestor is due \$350.00 for the MMI evaluation.

The Division finds that the total allowable for the MMI/IR evaluation, CPT Code 99456-W5-WP is \$800.00. The respondent paid \$0.00. As a result, the requestor is entitled to reimbursement of \$800.00.

3. On the disputed date of service, the requestor also billed CPT codes 99456-W6-RE, 99456-W7-RE and 99456-W8-RE.

- 28 Texas Administrative Code §134.204(i)(1)(C) stipulates “Extent of the employee's compensable injury shall be billed and reimbursed in accordance with subsection (k) of this section, with the use of the additional modifier “W6.”
- Per 28 Texas Administrative Code §134.204(i)(1)(D) the “W7” modifier is used for billing an examination to determine if the injured employee's disability is a direct result of the work-related injury and shall be billed and reimbursed in accordance with subsection (k) of this section.
- 28 Texas Administrative Code §134.204(i)(1)(E) indicates that modifier “W8” is billed for examination that determine the “Ability of the employee to return to work shall be billed and reimbursed in accordance with subsection (k) of this section.”

A review of the submitted medical billing finds that the requestor supported billing 99456-W6-RE, 99456-W7-RE and 99456-W8-RE.

The MAR for CPT codes 99456-W6-RE, 99456-W7-RE and 99456-W8-RE is:

- 28 Texas Administrative Code §134.204(k) states “The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier “RE.” In either instance of whether MMI/IR is performed or not, the reimbursement shall be \$500 in accordance with subsection (i) of this section and shall include Division-required reports. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee.”

- 28 Texas Administrative Code §134.204(i)(2) states “When multiple examinations under the same specific Division order are performed concurrently under paragraph (1)(C) - (F) of this subsection: (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in subsection (k) of this section; (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in subsection (k) of this section; and (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in subsection (k) of this section.”

The requestor is due \$500.00 for the extent of injury examination; \$250.00 for disability is a direct result of the work related injury examination; and \$125.00 for the return to work examination.

The Division finds that the total allowable for these examinations is \$875.00. The respondent paid \$0.00. As a result, the requestor is entitled to reimbursement of \$875.00.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,675.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,675.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

		07/25/2014
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 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.