



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

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

STEVEN HOLTZMAN

Respondent Name

OLD REPUBLIC INSURANCE CO

MFDR Tracking Number

M4-13-3165-01

Carrier's Austin Representative

Box Number 44

MFDR Date Received

July 29, 2013

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Dr. Steven Holtzman requests Medical Dispute Resolution in pursuant of Rule 133.305 Medical Dispute Resolution in the above referenced patient's case.

These services were requested and prescribed by the Division. The above referenced designated doctor performed the MMI examination and assigned the IR, but did not perform the range of motion, strength, or sensory testing of the musculoskeletal body area(s), that means he should be using the appropriate MMI CPT code 99456 with component modifier – 26. Reimbursement for the examining doctor is 80% of the MAR."

Amount in Dispute: \$337.50

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "This a medical fee dispute concerning reimbursement for a designated doctor evaluation conducted on October 9, 2012, Steven Holtzman, M.D. was appointed to address three issues: MMI, impairment rating, and extent of the compensable injury. Requestor billed a total of \$2150.00 for the evaluation. Carrier issued reimbursement in the amount of \$1012.50 ... Extent of injury evaluations are reimbursed at \$500. Multiple evaluations are reduced by 50% for the second evaluation and 25% for the third and subsequent evaluation. 134.204(i)(2).The extent of injury evaluation was a third evaluation and reduced to 25%. That amount should have been \$125.00. However, reimbursement was paid at \$162.50"

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 09, 2012	CPT Code 99080-W6-RE	\$337.50	\$337.50

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 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.204 sets out the fee guideline for workers' compensation specific services.
3. Labor Code §408.004 sets out provisions related to required medical examinations.

4. Labor Code §408.0041 sets out provisions related to designated doctor examinations.
5. Labor Code §408.151 sets out provisions related to medical examinations for supplemental income benefits.
6. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 16 – Claim/service lacks information which is needed for adjudication

Issues

1. What is the applicable rule for determining reimbursement of the disputed services?
2. Did the respondent support the insurance carrier's reasons for reduction of payment?
3. Is the requestor entitled to reimbursement?

Findings

1. The disputed service relates to a designated doctor examination pursuant to a Commissioner order to determine maximum medical impairment, impairment rating and extent of injury, with billing and reimbursement subject to the provisions of 28 Texas Administrative Code §134.204(i)(1), which requires that "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: . . . (C) 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;" §134.204(i)(2) further 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. "
2. The insurance carrier reduced payment to 25% of the set fee for the disputed extent of injury examination, procedure code 99456-W6-RE, service date October 09, 2012, indicating reason code 16 – "Claim/Service lacks information which is needed for adjudication. The insurance carrier further explains in its carrier response position statement Extent of injury evaluations are reimbursed at \$500.00. Multiple evaluations are reduced by 50% for the second evaluation and 25% for the third and subsequent evaluations. 134.204(i)(2). Carrier calculated a reimbursement of \$1012.50. The MMIR and IR evaluation as reimbursed with \$730 paid to Dr. Holzman and \$70 to the ancillary provider. A total of \$800 was billed (\$350 (MMI + \$300 (1st ROM) + \$150(2nd ROM). However, it appears that \$710 should have been paid to Dr. Holzman and \$90 to the ancillary provider. The extent of injury evaluation was a third evaluation and reduced to 25%. That amount should have been \$125.00. However, reimbursement was paid at \$162.50.

The Commissioner Order dated September 20, 2012, specifies that a designated doctor examination be performed for the purpose of Maximum Medical Improvement (MMI), Impairment Rating (IR) and Extent of Injury. The Division notes carrier made full payment for the MMI and IR examinations performed on the same date, and that reimbursement for those services is not in dispute.

The Division further notes that examinations to determine MMI and IR are subject to the provisions of §134.204(i)(1)(A) and (B) respectively—not paragraph (1)(C) - (F). Accordingly, examinations to determine MMI and IR and are not considered as first or second examinations for the purposes of calculating reduced payment for multiple examinations under paragraph (1)(C) - (F) when performed concurrently under the same specific Division order.

Review of the submitted documentation finds only one examination, procedure code 99456-W6-RE, performed under paragraph (1)(C) – (F) on the disputed service date of October 09, 2012. The Commissioner order is dated September 20, 2012. Although the insurance carrier refers to multiple examinations. Review of the submitted documentation finds only one order for the following examination order dated September 20, 2012. No information was found to support insurance carrier payment of any other examinations performed concurrently under paragraph (1)(C) - (F) under the same specific Division order dated September 20, 2012. The insurance carrier's payment reduction reason is not supported

3. Per 28 Texas Administrative Code §134.204(k), "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." Reimbursement for procedure code 99456-W6-RE is \$500.00. The insurance carrier paid \$162.50, leaving a balance due to the requestor of \$337.50. The requestor is therefore entitled to additional reimbursement of \$337.50.

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 \$337.50.

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 \$337.50 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	07/25/14 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.