



# 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**

GILBERT MAYORGA MD

**Respondent Name**

NEW HAMPSHIRE INSURANCE CO

**MFDR Tracking Number**

M4-14-0480-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

October 10, 2013

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "I am in receipt of recent correspondence sent via fax to my office on 08/06/2013 at which time we received Explanation of Benefits and partial payment of services performed on the above-captioned claimant of 11/27/2012. In brief, we are in disagreement of the reimbursement that has been provided. The disagreement of the reimbursement that has been provided. The bills that were submitted were billed in accordance with the Texas Department of Insurance Fee Guideline and were billed according with the appropriate modifiers and supporting documentation for Designated Doctor Exam of 11/27/2013."

**Amount in Dispute:** \$425.00

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Requestor is seeking reimbursement for date of service November 27, 2012 in the amount of \$425.00. The date of service at issue is for a designated doctor examination. For date of service of November 27, 2012, provider submitted billing for fist examination CPT 99456: W5-WP - \$650.00 maximum medical improvement and impairment rating (1 body area), second examination W8-RE - \$500.00 Extent of Injury, and third examination W6-RE - \$250.00 Return to Work. Pursuant to Rule § 134.204(i)(2), the bill was reimbursed accordingly ... As multiple examinations were performed concurrently, the first examination was reimbursed at 100%, the second at 50% and the third and subsequent was reimbursed at 25%. For the date of service at issue at this inquiry and CPT 99456, the provider submitted total billing of \$1,400.00. Of this amount, \$965.00 was reimbursed. Reimbursement of the first examination of \$650.00 at 100% results in \$650.00. Reimbursement of the second examination of \$500.00 at 50% results in \$250.00. Reimbursement of the third examination of \$250.00 at 25% result in \$62.50. The sum of the reimbursement amounts pursuant to the above results in \$962.50."

**Response Submitted by:** Thornton, Biechlin, Segrato Reynolds & Guerra, L.C.

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 27, 2012	CPT Code 99456-W8-RE and 99456-W6-RE	\$425.00	\$425.00

#### 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. 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. 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 reimbursement for 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 services relate to a designated doctor examination to determine maximum medical improvement, impairment rating, extent of injury and return to work, with billing and reimbursement subject to the provisions of 28 Texas Administrative Code §134.204(i)(1), which requires "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; (B) Attainment of maximum medical improvement 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; (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;" (E) Ability of the employee to return to work shall be billed and reimbursed in accordance with subsection (k) of this section, with the use of the additional modifier "W8". §134.204(i)(2) further specifies that "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 denied service date November 27, 2012 with reason code 16 – Claim/service lacks information which is needed for adjudication. The insurance carrier further explains in the response that "Requestor is seeking reimbursement for date of service November 27, 2012 in the amount of \$425.00. The date of service at issue is for a designated doctor examination. For date of service November 27, 2012, provider submitted billing for first examination CPT 99456: W5 WP - \$650.00 maximum medical improvement and impairment rating (1 body area), second examination W8 RE - \$500.00 Extent of Injury, and third examination W6 RE - \$250.00 Return to Work ... As multiple examinations were performed concurrently, the first examination was reimbursed at 100%, the second at 50% and the third and subsequent was reimbursed at 25%. For the date of service at issue in this inquiry and CPT 99456, the provider submitted total billing of \$1,400.00. Of this amount, \$965.00 was reimbursed. Reimbursement of the first examination of \$650.00 at 100% results in \$650.00. Reimbursement of the second examination of \$500.00 at 50% results in \$250.00. Reimbursement of the third examination of \$250.00 at 25% results in \$62.50. The sum of the reimbursement amounts pursuant to the above results in \$962.50."

Review of DWC-32 (Request for Designated Doctor Examination) requested the following examinations, Maximum Medical Improvement, Impairment Rating, Extent of Injury and Return to Work. In further review of division notes finds DWC-32 approved with scheduled date of November 27, 2012. The Division notes that the insurance 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-W8-RE and 99456-W6-RE, performed under paragraph (1)(C) – (F) on the disputed service date of November 27, 2012. Although the insurance carrier refers to multiple examinations performed concurrently. Review of Division records finds a prior Designated Doctor Examination held on August 21, 2012. The reimbursement reductions contemplated in §134.204(i)(2) are only applicable to multiple examinations under the same specific Division order. Review of the submitted documentation finds that the examinations performed in August 21, 2012 were

rendered pursuant to a different Division order. 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. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee." However, the requestor performed Return to Work and Extent of Injury examinations which are considered as a multiple examination in accordance with 28 Texas Administrative Code §134.204 (i)(2)(A-C) 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. Reimbursement for CPT Code 99456-W8-RE is \$500.00. The insurance carrier paid \$162.50, leaving a balance of \$337.50 due to the requestor. Reimbursement for CPT Code 99456-W6-RE is \$250.00. The insurance carrier paid \$162.50, leaving a balance of \$87.50. The requestor is therefore entitled to additional reimbursement of \$425.00.

**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 \$425.00.

**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 \$425.00 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.**