



**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**

DR. HANK MILLER

**Respondent Name**

NEW HAMPSHIRE INSURANCE CO.

**MFDR Tracking Number**

M4-14-0557-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

OCTOBER 15, 2013

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "insurance companies are required to pay for designated doctor examinations. In this case there were 2 separate dd examinations requested. Please pay the fees determined by the TWC and now accrued interest."

**Amount in Dispute:** \$850.00

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The carrier asserts that it has paid according to applicable fee guidelines and challenges whether the disputed charges are consistent with applicable fee guidelines."

**Response Submitted by:** Flahive, Ogden & Latson

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 23, 2013	Designated Doctor Evaluation CPT Code 99456-W5-NM	\$350.00	\$350.00
June 4, 2013	Designated Doctor Evaluation CPT Code 99456-W5	\$350.00	\$0.00
June 4, 2013	Designated Doctor Evaluation CPT Code 99456-W5	\$150.00	\$0.00
TOTAL		\$850.00	\$350.00

**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 §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:

- 4-The procedure code is inconsistent with the modifier used or a required modifier is missing.

### Issues

1. Did the Designated Doctor bill for the examination rendered on January 23, 2013 in accordance with fee schedule? Is the requestor entitled to reimbursement?
2. Did the Designated Doctor bill for the examination rendered on June 4, 2013 in accordance with fee schedule? Is the requestor entitled to reimbursement?

### Findings

1. For date of service, January 23, 2013 the requestor billed CPT code 99456-W5-NM.

- 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” as the first modifier 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) “Maximum Medical Improvement and/or Impairment Rating (MMI/IR) examinations shall be billed and reimbursed as follows: (A) If the examining doctor, other than the treating doctor, determines MMI has not been reached, the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this subsection. Modifier "NM" shall be added.”
- 28 Texas Administrative Code §134.204(n)(6) 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 “NM” modifier is defined as “Not at Maximum Medical Improvement (MMI)--This modifier shall be added to the appropriate MMI CPT code to indicate that the injured employee has not reached MMI when the purpose of the examination was to determine MMI.”

A review of the requestor’s billing finds that the “NM” modifier was appended to CPT code 99456 to designate that the claimant had not reached MMI.

The Division finds that the Designated Doctor billed for the evaluation/examination in accordance with 28 Texas Administrative Code §134.204; therefore, reimbursement is recommended.

28 Texas Administrative Code §134.204(j)(3) indicates that the total maximum allowable reimbursement, (MAR), for CPT code 99456-W5-NM is \$350.00. The respondent paid \$0.00. As a result, the requestor is entitled to reimbursement of \$350.00.

2. For date of service, June 4, 2013 the requestor billed CPT code 99456-W5. According to the submitted explanation of benefits, the respondent denied reimbursement because “The procedure code is inconsistent with the modifier used or a required modifier is missing.”
  - In accordance with 28 Texas Administrative Code §134.204(j)(3)(C), the requestor billed CPT code 99456 for the evaluation performed by a designated doctor.
  - 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 not appended to CPT code 99456 to designate that the provider had performed the MMI examination and the IR testing; therefore, the respondent's denial is supported. As a result, reimbursement is not recommended.

### **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 \$350.00.

### ***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 \$350.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

_____	_____	10/14/2014
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.**