



**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**

MALIK PERVEEN

**Respondent Name**

FLAHIVE OGDEN & LATSON

**MFDR Tracking Number**

M4-14-1970-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

March 04, 2014

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "Dr. Perveen Malik requests Medical Dispute Resolution in pursuant of Rule 133.305 Medical Dispute Resolution in the above referenced patients case.

New Rule §134.204(i) describes all six examinations performed by designated doctors, but directs the reimbursement for MMI/IR examinations performed by designated doctors to subsection (j), and excludes reimbursement for MMI/IR from the tiered reimbursement structure of subsection (i) for multiple examinations performed by the designated doctor. MMI/IR examinations performed by designated doctor do\_not result in the tiering of the non-MMI/IR examinatinos."

**Amount in Dispute:** \$175.00

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "Gallagher Bassett escalated the claim in question for date of service 11/19/2013 to our bill review vendor. Our vendor stands by its review as follows:

Per review: 00GB140340175 11/19/13 99456/W6.RE.RM allowed \$325 (\$650 \* 50%) – second exam (\$500 (W6) + \$150 (RM) Per review of the documents for this bill DWC # is 1144736-DA

Per review of history:

00GB131407082 3/12/13

99456/W7.RE.RM allowed \$500 – First exam

99456/W5.WP.RM allowed \$500 – no reduction taken allowed at 100% of MAR for modifier W5

Per review of the documents for this bill DWC # is 1144736-DA."

**Response Submitted by:** Gallagher Basset Services, Inc.

**SUMMARY OF FINDINGS**

| Dates of Service  | Disputed Services    | Amount In Dispute | Amount Due |
|-------------------|----------------------|-------------------|------------|
| November 19, 2013 | CPT Code 99456-W6-RE | \$175.00          | \$175.00   |

## **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. 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:
  - 59 – Processed based on multiple or concurrent procedures rules

### **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 services relate to a designated doctor examination pursuant to a Commissioner order to determine 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 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 Commissioner Order dated October 24, 2013, specifies that a designated doctor examination be performed for the purpose of determining Extent of Injury only.

The insurance carrier denied service date November 19, 2013, procedure code 99456-W6-RE indicating reason code 59 – "Processed based on multiple or concurrent procedure rules." The insurance carrier further states in its position statement " Per review 00GB140340175 11/19/13, 99456-W6.RM allowed \$325 (\$650 \*50%) – second exam (\$500 (W6) + \$150 (RM)), Per review of the documents for this bill DWC # is 1144736-DA

Per review of history 00GB1314807082 3/12/13, 99456/W7.RE.RM allowed \$500 – first exam, 99456/W5.WP.RM allowed \$500 – no reduction taken allowed at 100% of MAR for modifier W5, Per review of the documents for this bill DWC # is 1144736-DA."

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 November 19, 2013. The Commissioner order is dated October 24, 2013. Although the insurance carrier refers to prior examinations performed on March 12, 2013, the Division notes that those prior examinations were performed before the Commissioner order date of October 24, 2013. 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 March 12, 2013 and November 19, 2013 were rendered pursuant to two different Division orders. 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 October 24, 2013. 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 \$325.00, leaving a balance due to the requestor of \$175.00. The requestor is therefore entitled to additional reimbursement of \$175.00.

**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 \$175.00.

**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 \$175.00 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

08/15/14  
\_\_\_\_\_  
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.**