



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

DR. WILLIAM J. KOWALSKI

Respondent Name

NEW HAMPSHIRE INSURANCE CO

MFDR Tracking Number

M4-14-2432-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

APRIL 8, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This is a Designated Doctor Examination asked to provide the following MMI impairment rating examination & report provided in timely manner. Coding & billing done in accordance to Texas Work Comp Guidelines taken from your seminar notes. Billings sent to Carrier 2X 2nd time with corrections. Carrier refused to pay."

Amount in Dispute: \$800.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Carrier stands by its audit review. Please see the attached EOBs. Carrier challenges whether the disputed charges meet applicable fee guidelines."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 8, 2014	CPT Code 99456-W5-WP Designated Doctor Evaluation	\$650.00	\$650.00
	CPT Code 73564-50 Knee X-Ray	\$150.00	\$138.76
TOTAL		\$800.00	\$788.76

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.
- 28 Texas Administrative Code §134.203, effective March 1, 2008, 33 *Texas Register* 364, sets the reimbursement guidelines for the disputed service.

4. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 16-Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.
 - BL-To avoid duplicate bill denial, for all recon/adjustments/additional pymnt requests, submit a copy of this EOR or clear notation that a rec.
 - BL-This bill is a reconsideration of a previously reviewed bill. Allowance amounts do not reflect previous payments.
 - W3-Additional payment on appeal/reconsideration.
 - 193- Original payment decision is being maintained. Upon review it was determined that this claim was processed properly.

Issues

1. Did the Designated Doctor bill for the MMI/IR evaluation in accordance with medical fee guideline?
2. Does the documentation support billed service?
3. Is the requestor entitled to reimbursement for the MMI/IR?
4. Is the requestor entitled to reimbursement for CPT code 73564-50?

Findings

1. On the disputed date of service, the requestor billed CPT code 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” as the first modifier appended to CPT code 99456.

- 28 Texas Administrative Code §134.204(j)(3)(C) states “The following applies for billing and reimbursement of an MMI evaluation. 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 ordered by the Division on December 18, 2013.

- 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.

- 28 Texas Administrative Code §134.204(n)(5) defines the “MI” modifier as “Multiple Impairment Ratings-- This modifier shall be added to CPT Code 99455 when the designated doctor is required to complete multiple impairment ratings calculations.”

The Division finds that the Designated Doctor billed for the evaluation/examination in accordance with 28 Texas Administrative Code §134.204.

2. According to the explanation of benefits, the respondent denied reimbursement for the Designated Doctor Examination and x-rays based upon reason code "16". A review of the submitted medical records support billed service; therefore, reimbursement is recommended.
3. 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.
 - (I) \$150 for each body area if the Diagnosis Related Estimates (DRE) method found in the AMA Guides 4th edition is used.
 - (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 one body area. A review of the Designated Doctor report finds that a full evaluation with range of motion was performed on the right knee; therefore, the MAR is \$300.00 per 28 Texas Administrative Code §134.204(j)(4)(C)(ii)(II)(a).

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 is \$650.00. The respondent paid \$00.00. As a result, the requestor is entitled to reimbursement of \$650.00.

4. 28 Texas Administrative Code §134.203(a)(5) states "Medicare payment policies" when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare."

28 Texas Administrative Code §134.203(b)(1) states "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

The American Medical Association (AMA) Current Procedural Terminology (CPT) defines code 73564 as "Radiologic examination, knee; complete, 4 or more views." The requestor appended modifier "50-Bilateral Procedure" to code 73564 to indicate that service was performed on both knees.

Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007."

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2014 DWC conversion factor for this service is 55.75

The Medicare Conversion Factor is 35.8228

Review of Box 32 on the CMS-1500 the services were rendered in zip code 77015, which is located in Houston, Texas. Therefore, the Medicare participating amount will be based on the reimbursement for "Houston, Texas".

The Medicare participating amount for code 73564 is \$44.58.

Code 73564 is a unilateral code that is exempt from the multiple procedure rule discounting.

Using the above formula, the Division finds the MAR is $\$69.38 \times 2 = \138.76 . The respondent paid 0.00. The difference between the MAR and paid is \$138.76. This amount is recommended for additional reimbursement.

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 \$788.76.

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 \$788.76 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	01/21/2015 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.