



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Trenton D. Weeks, DC

Respondent Name

Indemnity Insurance Company of North America

MFDR Tracking Number

M4-14-3517-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

July 29, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "On 08/08/2013 I performed an evaluation to determine maximum medical improvement and impairment of the ... claimant. I performed this examination at the request of the injured employee and the treating doctor.

08/21/13 Carrier EOR indicates code:

- (62) No proof of pre-auth.
- (2) Final adjudication.

Response: This examination was performed for the purpose of determining MMI and Impairment as it related to the work injury of 02/13/2013. This evaluation does not in any way constitute treatment of the injured work er and is not subject to preauthorization requirements in accordance with Labor Code §413.014 and is subject to reimbursement with Labor Code §408.0041 (f-2)(h)(1). This evaluation addresses compensable body part(s) and not specific diagnosis. The EOR is very vague and non-specific as to the reason of denial, indicating "final adjudication." Is the carrier denying this Texas injured worker's entitlement to an MMI and Impairment examination as requested and referred by the treating doctor, or is this workers' compensation claim being denied in its entirety? This examination addresses MMI and Impairment of the compensable injuries. DWC-TWCC affords the injured employees' assignment of MMI and Impairment by certified doctor. When performing an MMI/IR examination, the injured body part is what is examined and not a specific diagnosis. I am unsure what is needed for adjudication for the compensable injury. This examination and report in no way constitutes treatment and was referred by the treating doctor. This report and bill was performed according to TDWC rules and should be paid in full.

12/26/2013 Carrier EOR denial of reconsideration indicates code:

- (15) The authorization number is missing, invalid, or does not applt to the billed services or provider.
- (193) Original payment decision is being maintained. Upon review, it was determine that this claim was precessed properly.
- (197) Precertification/authorization/notification absent.
- (62) No proof of pre-auth.
- (W2) Final adjudication.

Response: This is a request for Medical Fee Dispute Resolution. This examination was performed for the purpose of determining MMI and Impairment as it related to the work injury of 02/13/2011. DWC-TWCC affords the injured employees' assignment of MMI and Impairment by certified doctor. This evaluation and report does not in any way constitute treatment of the injured worker and is not subject to preauthorization requirements in accordance with Labor Code §413.014 and is subject to reimbursement with Labor Code §408.0041 (f-2)(h)(1). Again, is the carrier denying this Texas injured worker's entitlement to an MMI and Impairment examination as requested and referred by the treating doctor, or is this workers' compensation claim being denied in its entirety? When preforming and MMI/IR examination, the injured body part is what is examined, not a specific diagnosis. All

reports from health care providers as well as the injured employee state injury to the head, neck, and low back. Carrier has not been forthcoming to changes, if any, to the compensable injury and to which diagnosis code is accepted. I am unsure what is needed for adjudication of the compensable injury as I feel this is just a guessing game for the exact diagnosis code the carrier has for the work related injuries. This is a medical maximum improvement examination which is only relative to the musculoskeletal area/part. Whether or not the carrier is disputing the severity of the injury and/or what treatment should coincide, my purpose as an examining doctor is to determine the impairment, if any, of the body part(s) that were injured. Thus, denying payment based on the relativeness to the work related injury is not comparative in this case and would only prove to be relative if there is no compensable injury to the head, neck, and low back. After careful review of documentation it is concluded that this billed examination was properly performed, document, and submitted. The ... claimant was placed at clinical MMI and was assigned an Impairment Rating as a result of the compensable injury. 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. This evaluation addresses compensable body parts and not a specific diagnosis. Again, this examination and report in no way constitutes treatment and was referred by the treating doctor as indicated in the DWC-69. This report and bill was performed according to TDWC rules and should be paid in full.”

Amount in Dispute: \$650.00

RESPONDENT’S POSITION SUMMARY

Respondent’s Position Summary: “We are in receipt of the MDR request from DWC for Texas Impairment Exam, date of service 08/08/13...”

ESIS Med Bill Impact’s Bill Review Department reviewed the above mentioned date of service and found that the provider was not due additional money. It has been determined that ESIS Med Bill Impact will stand on the original recommendation of \$0.00.

Chapter 130 – Impairment and Supplemental Income Benefits subsection (c)(c); (viii) a copy of the authorization if, after September 1, 2003, the doctor received authorization to assign an impairment rating and certify MMI by exception granted from the division.”

Response Submitted by: ESIS Bill Review, 1851 E 1st St., #200, Santa Ana, CA 92705

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 8, 2013	99456	\$650.00	\$650.00

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 §134.600 defines services subject to pre-authorization requirements.
3. 28 Texas Administrative Code §130.1 (a) identifies providers who are authorized to evaluate maximum medical improvement and impairment rating.
4. 28 Texas Administrative Code §134.204 provides the fee guidelines for the requested services.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:

From Explanation of Benefits dated 8/21/13:

- 62 – No proof of pre-auth (TX02)
- W2 – Final adjudication (TX04)

From Explanation of Benefits dated 12/26/13:

- Previous recommended payment amount on line: \$0
- 15 – The authorization number is missing, invalid, or does not apply to the billed services or provider. (ANSI15)
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly. (ANSI193)

- 197 – Precertification/authorization/notification absent. (ANSI197)
- 214 – Workers Compensation claim adjudicated as non-compensable. This Payer is not liable for claim or service/treatment. (ANSI214)
- This appeal is denied as we find the original review reflected the appropriate allowance for the service rendered. We find that no additional recommendation is warranted at this time. (CIQ378)
- Previous recommended history on DCN(s): 22322464- \$0.00 (TX02, TX04, ANSI15, ANSI214) (RE555)
- 62 – No proof of pre-auth (TX02)
- W2 – Final adjudication (TX04)

Issues

1. Has the claim been adjudicated as not compensable?
2. Are the requested services subject to pre-authorization requirements defined in 28 Texas Administrative Code §134.600?
3. Was the requestor authorized to evaluate maximum medical improvement and impairment rating at the time services were performed?
4. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier denied the requested services stating, “Workers Compensation claim adjudicated as non-compensable. This Payer is not liable for claim or service/treatment.” Review of the submitted documentation finds no evidence that this workers’ compensation claim was denied or adjudicated as non-compensable. Therefore, this denial is not supported.
2. The insurance carrier denied services stating that precertification/authorization/notification was absent. Review of the submitted documentation finds that the requested services are division-specific services and not subject to the pre-authorization requirements found in 28 Texas Administrative Code §134.600.
3. 28 Texas Administrative Code §130.1 (a), states, “Authorized Doctor (1) Only an authorized doctor may certify maximum medical improvement (MMI), determine whether there is permanent impairment, and assign an impairment rating if there is permanent impairment. (A) Doctors serving in the following roles may be authorized as provided in subsection (a)(1)(B) of this section. (i) the treating doctor (**or a doctor to whom the treating doctor has referred the injured employee for evaluation of MMI and/or permanent whole body impairment** in the place of the treating doctor, in which case the treating doctor is not authorized); (B) ...On or after September 1, 2003, a doctor serving in one of the roles described in subsection (a)(1)(A) of this section is authorized as follows: (i) **a doctor whom the commission has certified to assign impairment ratings** or otherwise given specific permission by exception to, is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI” [emphasis added].

Review of the submitted documentation finds that the requestor was referred by the treating doctor to perform an examination of maximum medical improvement and impairment rating. The documentation also supports that the requestor’s certification from the Division was valid at the time of service. Therefore, the requestor was authorized to evaluate maximum medical improvement and impairment rating at the time the services were performed.

4. 28 Texas Administrative Code §134.204 (j)(2) states, “An HCP shall only bill and be reimbursed for an MMI/IR examination if the doctor performing the evaluation (i.e., the examining doctor) is an authorized doctor in accordance with the Act and Division rules in Chapter 130 of this title.”

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**” [emphasis added].

28 Texas Administrative Code §134.204 (j)(4) states, “The following applies for billing and reimbursement of an IR evaluation. (C)(ii) The MAR for musculoskeletal body areas shall be as follows. (II) If full physical evaluation, with range of motion, is performed: (-a-) **\$300 for the first musculoskeletal body area**... (D)(v) The MAR for the assignment of an IR in a **non-musculoskeletal body area shall be \$150**” [emphasis added].

Review of the submitted documentation finds that the requestor performed an evaluation of maximum medical improvement and impairment rating, including a full physical examination with range of motion on the spine and one non-musculoskeletal body area, as set out in 28 Texas Administrative Code §134.204 (j). The requestor is entitled to \$800.00 reimbursement. The requestor is seeking \$650.00 in reimbursement. Therefore, it is found that \$650.00 is the recommended reimbursement amount.

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 \$650.00.

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 \$650.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

	Laurie Garnes	January 6, 2015
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.