



## **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**

John Anderson, MD

**Respondent Name**

City of San Antonio

**MFDR Tracking Number**

M4-15-0319-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

September 22, 2014

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "These services were requested and prescribed by the Division. The above referenced designated doctor performed the MMI examination and assigned the IR, but he did not perform the range of motion, strength, or sensory testing of the musculoskeletal body area(s), that means he should bill using the appropriate MMI CPT code 99456 with the component modifier – 26. Reimbursement for the examining doctor is 80% of the MAR.

The physical therapist and/or health care provider other than the examining doctor that performs the range of motion, strength, or sensory testing of the musculoskeletal body, the physical therapist and/or health care provider will bill with the component – TC. In this instance, reimbursement to the physical therapist and/or health care provider is 20% of MAR.

The bills from the two parties must be coordinated and billed appropriately and should be billed at the same time for the correct reimbursement."

**Amount in Dispute:** \$175.00

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The issue is in regards to billing modifier W5 for a designated doctor examination.

According to 28 TAC §134.204(i)(1)(A): 'Impairment caused by the compensable injury shall be billed and reimbursed in accordance with subsection (j) of this section, and the use of additional modifier "W5" is the first modifier to be applied when performed by a designated doctor.'

The initial billing reflected procedure code 9945626 and 99456TC. The enclosed explanation of benefits indicates the bill was denied on January 29, 2014 with the reason code: 'The procedure code is inconsistent with the modifier used or a required modifier is missing.'

The reconsideration billing reflected the same procedure codes without the required modifier W5. The bill was again denied on February 26, 2014 with the same reason code. In addition, at the bottom of the explanation of benefits the typed note reads: 'Please provide the appropriate W Modifier as well as the 26 and TC.'

The bills were correctly audited in accordance with the above guidelines. Since the provider has not complied with the rules of billing with W5, no allowance is recommended at this time."

**Response Submitted by:** Argus Services Corporation, PO Box 121390, Arlington, TX 76012

## **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 9, 2013	Designated Doctor Examination	\$175.00	\$0.00

## **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 procedures for billing and reimbursing Designated Doctor Examinations.
3. 28 Texas Administrative Code §133.10 defines the requirements for billing medical services.
4. 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.
  - W3W – No reimbursement recommended on reconsideration. Previous recommendation was in accordance with the Workers' Compensation State Fee Schedule.
  - Comment: Re-consideration of EOB. 660071 Please provide the appropriate W modifier as well as the 26 and TC.

### **Issues**

1. What are the appropriate modifiers for the disputed services according to 28 Texas Administrative Code §134.204?
2. Is the requestor entitled to reimbursement?

### **Findings**

1. 28 Texas Administrative Code §133.204 (i)(1) states, "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**; 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**;" [emphasis added].  
Further, 28 Texas Administrative Code §133.204 (j)(4)(C)(iv) states, "If, in accordance with §130.1 of this title (relating to Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment), the examining doctor performs the MMI examination and assigns the IR, but does not perform the range of motion, sensory, or strength testing of the musculoskeletal body area(s), then **the examining doctor shall bill using the appropriate MMI CPT code with CPT modifier '26.'** Reimbursement shall be 80 percent of the total MAR" [emphasis added].  
Additionally, 28 Texas Administrative Code §133.204 (j)(4)(C)(v) states, "If a HCP, other than the examining doctor, performs the range of motion, sensory, or strength testing of the musculoskeletal body area(s), then **the HCP shall bill using the appropriate MMI CPT code with modifier 'TC.'** In accordance with §130.1 of this title, the HCP must be certified. Reimbursement shall be 20 percent of the total MAR" [emphasis added].  
Therefore, the appropriate billing with modifiers for the disputed services is as follows:
  - On a bill submitted by the examining doctor – CPT Code 99456 with modifiers W5, then 26.
  - On a bill submitted by the healthcare provider that performed the range of motion, sensory, and strength testing – CPT Code 99456 with modifier TC.
2. The requestor claims, "The above referenced designated doctor performed the MMI examination and assigned the IR, but he did not perform the range of motion, strength , or sensory testing of the musculoskeletal body area(s)." 28 Texas Administrative Code §133.10 (f)(1) states, "The following data content or data elements are required for a complete professional or noninstitutional medical bill related to Texas workers' compensation health care: (Q) procedure/modifier code (CMS-1500, field 24D) is required; (U) **rendering provider's** state license number (CMS-1500/field 24j, shaded portion) is required when the rendering provider is not the billing

provider listed in CMS-1500/field 33; the billing provider shall enter the '0B' qualifier and the license type, license number, and jurisdiction code (for example, 'MDF1234TX'); **rendering provider's** NPI number (CMS-1500/field 24j, unshaded portion) is required when the rendering provider is not the billing provider listed in CMS-1500/field 33 and the rendering provider is eligible for an NPI number; (Z) **signature of physician or supplier**, the degrees or credentials, and the date (CMS-1500/field 31) is required, but the signature may be represented with a notation that the signature is on file and the typed name of the physician or supplier" [emphasis added].

Review of the submitted documentation finds that the professional component of the examination was billed without the required modifier "W5" to indicate that the requestor was a designated doctor. Therefore, no reimbursement is recommended for this portion. Submitted documentation also indicates that the same provider billed for the technical component, rather than the rendering provider as claimed in the requestor's position statement. Therefore, no reimbursement is recommended for this portion.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

**Authorized Signature**

	Laurie Garnes	January 13, 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.**