



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 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Francis Flory, MD

Respondent Name

ZNAT Insurance Company

MFDR Tracking Number

M4-15-1866-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

February 20, 2015

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Dr. Francis Flory requests Medical Dispute Resolution in pursuant of Rule 133.305 Medical Dispute Resolution in the above referenced patient's case.

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 the 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: \$300.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The dispute appears to be a fee dispute regarding services performed on 10/13/14. Flory, Francis C. MD is appealing reimbursement of \$865.00 and is seeking an additional payment of \$300.00.

Reimbursement for disputed codes is as follows:

99456-W5-26: 28 Texas Administrative Code 134.204(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.

99456-W5-TC: 28 Texas Administrative Code 134.204(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.**

Date of Service	Disputed Code	Amount Billed	Fee Schedule Reimbursement	Comments
10/13/2014	99456-W5-26	\$650.00	\$280.00	Reimbursement shall be 80% of the total MAR ( <b>\$350.00 MMI Exam - 80% = \$280.00</b> ). <b>Upon further review, no additional payment is due.</b>
10/13/2014	99456-W5-TC	\$650.00	\$90.00	Reimbursement shall be 20% of the total MAR ( <b>\$300 ROM Upper Extremity [right wrist and right shoulder] + \$150.00 = \$450.00-20%=\$90.00</b> ). <b>Upon further review, an additional payment of \$20.00 is due.</b>

Zenith’s position is that **an additional payment in the amount of \$20 is due for procedure code 99456-W5-TC.**”

**Response Submitted by:** The Zenith

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 13, 2015	Designated Doctor Examination (MMI/IR/RTW)	\$300.00	\$250.00

**FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable 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 sets out the fee guidelines for billing and reimbursing Designated Doctor Examinations.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 217 – TX The value of this procedure is included in the value of another procedure performed on this date.
  - 224 – Duplicate Charge
  - 350 – TX Bill has been identified as a request for reconsideration or appeal.
  - XCP – XX Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

**Issues**

- Are the insurance carrier’s reasons for denial or reduction of payment supported?
- What is the correct Maximum Allowable Reimbursement (MAR) for the disputed services?
- Is the requestor entitled to additional reimbursement?

**Findings**

- On Explanations of Benefits dated November 5, 2014 and November 24, 2014, the insurance carrier denied disputed CPT Codes 99456-W5-26 and 99456-W5-TC with claim adjustment reason code 217 – “TX The value

of this procedure is included in the value of another procedure performed on this date.” 28 Texas Administrative Code §134.204 does not indicate that the value of either of these codes is included in the value of any other billed codes for the date of service in question. This denial reason presented by the insurance carrier is not supported.

On Explanation of Benefits dated December 9, 2014, the insurance carrier made a partial payment for these codes. Review of the document does not find a reason for reduction. Therefore, the insurance carrier did not support this reduction. The disputed services will therefore be reviewed per applicable Division rules and fee guidelines.

2. Per 28 Texas Administrative Code §134.204 (j)(3), “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 submitted documentation indicates that the Designated Doctor performed an evaluation of Maximum Medical Improvement as ordered by the Division. Therefore, the correct MAR for this examination is \$350.00.

Per 28 Texas Administrative Code §134.204 (j)(4), “**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” [emphasis added]. The submitted documentation indicates that the Designated Doctor performed a full physical evaluation with range of motion for the right lower extremity to find the Impairment Rating. Further, 28 Texas Administrative Code §134.204 (j)(4)(C) states, “(iv) 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. (v) 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.” Therefore, the correct MAR for the examining doctor for this examination is \$240.00. The correct MAR for the health care provider performing the range of motion, sensory, or strength testing is \$60.00.

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. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee.” The submitted documentation indicates that the Designated Doctor performed an examination to determine the injured employee’s ability to Return to Work. Therefore, the correct MAR for this examination is \$500.00.

Per 28 Texas Administrative Code §134.204 (l), “The following shall apply to Work Status Reports. When billing for a Work Status Report **that is not conducted as a part of the examinations outlined in subsections (i) and (j) of this section** [emphasis added], refer to §129.5 of this title (relating to Work Status Reports)”. Therefore, the filing of the DWC-073 is not payable when provided in conjunction with a Designated Doctor Examination under 28 Texas Administrative Code §134.204 (i).

3. The total MAR for 99456-W5-26 is \$590.00 (Total MMI + 80% of IR). The insurance carrier paid \$280.00. The remaining balance is \$310.00. The requestor is seeking \$250.00. Therefore, an additional reimbursement of \$250.00 is recommended for this code.

The total MAR for 99456-W5-TC is \$60.00 (20% of IR). The insurance carrier paid \$70.00. Therefore, no additional reimbursement is recommended for this code.

The total MAR for 99456-W8-RE is \$500.00. The insurance carrier paid \$500.00. Therefore, no additional reimbursement is recommended for this code.

The total allowable for 99080-73 is \$0.00. The insurance carrier paid \$15.00. Therefore, no additional reimbursement is 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 \$250.00.

**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 \$250.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

_____	<u>Laurie Garnes</u>	<u>May 15, 2015</u>
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, 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 MFDR 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.**