



# 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**

Paul Patrick, DO

**Respondent Name**

Sentry Insurance

**MFDR Tracking Number**

M4-15-1867-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

February 20, 2015

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "This request was made in the form and manner prescribed by the Division. The report of the designated doctor is given presumptive weight regarding the issue(s) in question and/or dispute. The designated examination was requested to resolve question(s) about the following:

**Impairment caused by the employee's compensable injury  
Attainment of maximum medical improvement**

In this case the reimbursement is not according to the Rule. The Designated Doctor may conduct two distinct exams in the same day. He shall be reimbursed \$350.00 per exam. The procedural guidance for bundling of codes does not apply to Designated Doctors exams. The examination for MMI/IR is reimbursed at \$350.00 and \$150.00 for one body area (DRE) method. When a permanent impairment exists, A Division of Workers' Compensation (DWC) certified impairment rating (IR) doctor must perform a physical examination to determine maximum medical improvement (MMI) and assign an IR. When the MMI and the range of motion, strength, or sensory testing required assigning an IR for the musculoskeletal body area(s), the doctor should bill using component modifier -WP and W5 MMI/IR. The Maximum allowable is reimbursed at 100%.

**Patient Not at MMI  
(Reimbursement \$350.00)**

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 doctors do not result in the tiering of the non-MMI/IR examinations.

When conducting exams for issues other than MMI/IR, apply the new tiered reimbursement method described in rule 134.204(i) to the remaining four exams. **Reimbursement for one of these exams is \$500.** When conducting more than one of these exams under the same request, the first exam is reimbursed at 100% of the fee for the exam, \$500; the second exam is reimbursed at 50% of the fee for the exam, \$250; and the subsequent exam(s) are reimbursed at 25% of the fee for the examination, \$125...

**Determine the Employee's MMI/IR  
Patient not at MMI  
(Reimbursement \$350.00)**

**Employee's ability to return to work  
(Reimbursement \$500.00)**

**DWC-73 work status report is not global to the Return to Work Exam per Rule 126.7 (o)  
(Reimbursement \$15.00)**

**Total Reimbursement is \$915.00**

We have met the burden of proof that the Carrier has received the claim with a copy of the facsimile transmission report to the Carrier. Enclosed is a facsimile transmittal that shows the Carrier received the bill in a timely manner.

We seek full reimbursement for the outstanding balance of \$100.00 along with interest accrued according to Rule 134.803 Calculating Interest for Late Payments on Medical Bills.”

**Amount in Dispute:** \$100.00

**RESPONDENT’S POSITION SUMMARY**

**Respondent’s Position Summary:** “We have allowed additional payment. We have attached the new EOR, copy of system check.”

**Response Submitted by:** Sentry Insurance

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 29, 2014	Designated Doctor Examination	\$100.00	\$100.00

**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**

- 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 services in dispute were reduced/denied by the respondent with the following reason codes:
  - P12 – Workers’ compensation jurisdictional fee schedule adjustment.
  - 1 – The amount paid reflects a fee schedule reduction (P300)
  - 2 – The charge for this procedure exceeds the fee schedule allowance. (Z710)
  - 3 – Procedure is reimbursable when requested by carrier or self-insured employer. (Z469)
  - 4 – Reimbursement has paid in accordance to The Texas Division of Workers Compensation Rules, Chapter 129 rule 129.5(a)-(j). (Z559)
  - 59 – Processed based on multiple or concurrent procedure rules.
  - 2 – Due to multiple services, this procedure was reduced 50 percent of the fee schedule rate. (M465)
  - 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

**Issues**

- What is the correct Maximum Allowable Reimbursement (MAR) for the disputed services?
- Is the requestor entitled to additional reimbursement?

**Findings**

1. 28 Texas Administrative Code §134.204 (j)(2)(A) states, “If the examining doctor, other than the treating doctor, determines [Maximum Medical Improvement (MMI)] has not been reached, the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this subsection. Modifier ‘NM’ shall be added.”

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 MMI as ordered by the Division. The requestor found the injured employee had not reached MMI. Therefore, the correct MAR for this examination is \$350.00.

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 Return to Work. Therefore, the correct MAR for this examination is \$500.00.

28 Texas Administrative Code §134.204 (j)(4)(D)(iii) states, "When the examining doctor refers testing for **non-musculoskeletal body area(s)** to a specialist, then the following shall apply: (l) The examining doctor (e.g., the referring doctor) shall bill using the appropriate MMI CPT code with modifier 'SP' and indicate one unit in the units column of the billing form. Reimbursement shall be \$50 **for incorporating one or more specialists' report(s) information into the final assignment of IR.** This reimbursement shall be allowed only once per examination." Review of the submitted documentation finds that the requestor did not perform a calculation of IR, as the injured employee was not at MMI. The narrative indicates a specialist's report was used in the examination to determine the injured employee's ability to return to work. Therefore, the correct MAR for this examination is \$0.00.

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)". Review of the submitted documentation finds that filing the Work Status Report was conducted as part of a Return to Work examination that is outlined in subsection (i). Therefore, the correct MAR for the filing of the DWC-073 is \$0.00.

2. The total allowable for 99456-W5-NM, as listed on the dispute is \$350.00. The insurance carrier paid \$250.00 per their explanation of benefits dated March 3, 2014. Therefore, an additional reimbursement of \$100.00 is recommended for this code.

The total allowable for 99456-W8-RE, as listed on the dispute is \$500.00. The insurance carrier paid \$500.00. Therefore, no additional reimbursement for this code is recommended.

The total allowable for 99456-SP, as listed on the dispute is \$0.00. The insurance carrier paid \$50.00. Therefore, no additional reimbursement for this code is recommended.

The total allowable for 99080-73, as listed on the dispute is \$0.00. The insurance carrier paid \$15.00. Therefore, no additional reimbursement for this code 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 \$100.00.

### ***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 \$100.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

### **Authorized Signature**

\_\_\_\_\_  
Signature

Laurie Garnes  
Medical Fee Dispute Resolution Officer

May 4, 2015  
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.**