



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

William Jackson, M.D.

Respondent Name

Ysleta ISD

MFDR Tracking Number

M4-16-1372-01

Carrier's Austin Representative

Box Number 4

MFDR Date Received

January 25, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "THIS PROVIDER HAS BEEN ON THE ACTIVE DIVISION LIST SINCE MAY 2013 – DENIAL IS INVALID"

Amount in Dispute: \$350.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The State of Texas requires the provider document proper coding of the medical bill, in order to insure correct benefit determination by the carrier. Modifier NM documents claimant is not at MMI. Modifier W5, however, is listed as an MMI/IR exam. As of today we have still not received the correct coding from Pacific Billing Service documenting which modifier is appropriate."

Response Submitted by: Claims Administrative Services, Inc.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
September 8, 2015	Designated Doctor Examination	\$350.00	\$350.00

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 §130.1 sets out the requirements for certification of maximum medical improvement and impairment rating.
- 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - B7 – This provider was not certified/eligible to be paid for this procedure/service on this date of service.

- P12 – Workers’ compensation jurisdictional fee schedule adjustment.

Issues

1. Is the insurance carrier’s reason for denial or reduction of payment supported?
2. What is the maximum allowable reimbursement (MAR) for the disputed services?
3. Is the requestor entitled to reimbursement of the disputed services?

Findings

1. The requestor is seeking reimbursement for a Designated Doctor Examination to determine if the injured employee had reached maximum medical improvement, and if so, the impairment rating. The insurance carrier denied disputed services with claim adjustment reason code B7 – “THIS PROVIDER WAS NOT CERTIFIED/ELIGIBLE TO BE PAID FOR THIS PROCEDURE/SERVICE ON THIS DATE OF SERVICE.” 28 Texas Administrative Code(TAC) §130.1(a) defines an authorized doctor stating,
 - (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);
 - (ii) a designated doctor; or
 - (iii) a required medical examination (RME) doctor selected by the insurance carrier and approved by the division to evaluate MMI and/or permanent whole body impairment after a designated doctor has performed such an evaluation.
 - (B) Prior to September 1, 2003 a doctor serving in one of the roles described in subsection (a)(1)(A) of this subsection is authorized to determine whether an injured employee has permanent impairment, assign an impairment rating, and certify MMI. 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 division 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; and
 - (ii) a doctor whom the division has not certified to assign impairment ratings or otherwise given specific permission by exception to is only authorized to determine whether an injured employee has permanent impairment and, in the event that the injured employee has no impairment, certify MMI.

The division finds that the requestor was certified to perform the examination in question on the disputed date of service in accordance with 28 TAC §130.1(a). The insurance carrier’s denial for this reason is not supported. The disputed services will therefore be reviewed per 28 TAC §134.204.

2. The requestor billed procedure code 99456-W5-NM for the services in dispute. The insurance carrier argues in their position statement that they have “not received the correct coding” with the correct modifier. 28 TAC §134.204(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: ...

- (B) 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

28 TAC §134.204(n)(20) further clarifies the use of this code, stating,

W5, Designated Doctor Examination for Impairment **or** [emphasis added] Attainment of Maximum Medical Improvement--This modifier shall be added to the appropriate examination code performed by

a designated doctor when determining impairment caused by the compensable injury and in attainment of maximum medical improvement.

Review of the submitted documentation finds that the requestor used modifier "W5" as the first modifier for an examination for determination of the attainment of maximum medical improvement (MMI).

Further, 28 TAC §134.204(j)(2)(a) states,

If the examining doctor, other than the treating doctor, determines 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.

Review of the submitted documentation supports that the examining doctor was not the treating doctor and determined that MMI was not reached.

Per 28 TAC §134.204(j)(3), the following applies for the reimbursement of an MMI evaluation, "An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350."

Submitted documentation finds that the requestor used CPT Code 99456 for the disputed services. The division finds that the requestor billed the disputed services in accordance with 28 TAC §134.204. Therefore, the MAR for these services is \$350.00.

3. The total MAR for the disputed services is \$350.00. The insurance carrier paid \$0.00. A reimbursement of \$350.00 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 \$350.00.

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 \$350.00 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	February 10, 2016 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.