



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

David E. Hoekenga, M.D.

Respondent Name

Service Lloyds Insurance Company

MFDR Tracking Number

M4-16-2535-01

Carrier's Austin Representative

Box Number 1

MFDR Date Received

April 22, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "POST DESIGNATED DOCTOR EXAMINATION WORK COMP 'SPECIFIC SERVICE' NO PAYMENT RECEIVED TO DATE"

Amount in Dispute: \$1650.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Claimant ... attorney ... requested another examination with Dr. Hoekenga on September 25, 2015, and it is this examination for which Provider seeks reimbursement from Respondent."

Response Submitted by: White/Espey PLLC

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: September 25, 2015, Examination to Determine Maximum Medical Improvement, Impairment Rating, and Extent of Injury, \$1650.00, \$0.00

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

- 1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §126.17 sets out the procedures for an examination after a designated doctor to address issues addressed by the designated doctor that do not include maximum medical improvement and impairment rating.
3. 28 Texas Administrative Code §130.1 sets out the requirements for certification of maximum medical improvement and impairment rating.

4. 28 Texas Administrative Code §134.204 sets out the fee guidelines for division-specific services.
5. 28 Texas Administrative Code §180.22 defines health care provider roles and responsibilities.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 243 – Srvs. not authorized by network/primary care prov

Issues

1. Is the insurance carrier's denial of procedure codes 99456-WP and 99456-MI supported?
2. Is the requestor entitled to reimbursement for procedure code 99456-RE?

Findings

1. The disputed services include procedure code 99456-WP, which represents an examination to determine maximum medical improvement and impairment rating, and procedure code 99456-MI, which represents multiple certifications of impairment. The insurance carrier denied these disputed services with claim adjustment reason code 243 – "Srvs. not authorized by network/primary care prov."

28 Texas Administrative Code §130.1(a) defines the circumstances under which a provider is authorized to certify maximum medical improvement and impairment rating, 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) ...
- (2) Doctors who are not authorized shall not make findings of permanent impairment, certify MMI, or assign impairment ratings and **shall not be reimbursed** [emphasis added] for the examination, certification, or report if one does so. A certification of MMI, finding of permanent impairment, and/or impairment rating assigned by an unauthorized doctor are invalid. If a treating doctor finds that the injured employee has permanent impairment but is not authorized to assign an impairment rating, the doctor is also not authorized to certify MMI and shall refer the injured employee to a doctor who is so authorized.

Review of the submitted information finds that the CMS-1500 medical bill marked "REQUEST FOR RECONSIDERATION" indicates a referral from Douglas Peters, M.D. However, review of the narrative does not support that the examination was referred by the treating doctor. The submitted DWC069, Report of Medical Evaluation, Box 13, was altered to reflect that the doctor was "selected by the examinee's attorney in place of the Treating Doctor." Further, page 1 of the narrative report states in two locations that the examination was performed at the request of the examinee's attorney. For this reason, the requestor was not authorized to certify maximum medical improvement and impairment rating in accordance with 28 Texas Administrative Code §130.1.

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.

The division finds that the insurance carrier's denial reason for procedure codes 99456-WP and 99456-MI is supported. Reimbursement for these services cannot be recommended.

2. The disputed services also include procedure code 99456-RE, which represents an examination to determine the extent of the compensable injury. The insurance carrier denied this disputed services with claim adjustment reason code 243 – “Srvs. not authorized by network/primary care prov.”

28 Texas Administrative Code §180.22(c) requires that:

The treating doctor is the doctor primarily responsible for the efficient management of health care and for coordinating the health care for an injured employee's compensable injury. The treating doctor shall:

- (1) except in the case of an emergency, approve or recommend all health care reasonably required that is to be rendered to the injured employee including, but not limited to, treatment or evaluation provided through referrals to consulting and referral doctors or other health care providers, as defined in this section.

Further, 28 Texas Administrative Code §180.22(e) defines a referral doctor as follows: “The referral doctor is a doctor who examines and treats an injured employee in response to a request from the treating doctor.”

28 Texas Administrative Code §126.17(a) defines the circumstances under which the examination in question is appropriate, stating:

An examination by the injured employee's treating doctor or **another doctor to whom the injured employee is referred by the treating doctor** [emphasis added] to determine any issue other than certification of maximum medical improvement and the evaluation of permanent impairment may be appropriate after a designated doctor examination if:

- (1) the designated doctor issued an opinion on the issue;
- (2) the injured employee is not satisfied with the designated doctor's opinion; and
- (3) the treating doctor or the referral doctor has not already provided the injured employee with a written report that meets the standard described by subsection (b) of this section on the issue addressed by the designated doctor.

Review of the submitted information finds that the CMS-1500 medical bill marked “REQUEST FOR RECONSIDERATION” indicates a referral from Doulas Peters, M.D. However, review of the narrative does not support that the examination was referred by the treating doctor. Page 1 of the narrative report states in two locations that the examination was performed at the request of the examinee’s attorney. For this reason, the requestor was not authorized by the treating doctor to perform the disputed examination in accordance with 28 Texas Administrative Codes §§180.22 and 126.17.

In addition, 28 Texas Administrative Code §134.204(k) address the use of modifier “RE,” stating:

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."

Because the examination in question was not requested by either the division or the insurance carrier, procedure code 99456 with modifier “RE” is not reimbursable. The division finds that the requestor is not eligible for reimbursement of this service.

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 additional reimbursement for the services in dispute.

Authorized Signature

Signature

Laurie Garnes

Medical Fee Dispute Resolution Officer

June 22, 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.