



# 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**

Sean McConathy, D.C.

**Respondent Name**

Lion Insurance Company

**MFDR Tracking Number**

M4-18-0463-01

**Carrier's Austin Representative**

Box Number 1

**MFDR Date Received**

October 23, 2017

#### REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary:** "DESIGNATED DOCTOR EXAMINATION NO PAYMENT RECEIVED"

**Amount in Dispute:** \$765.00

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** Submitted documentation does not include a position statement from the respondent. Accordingly, this decision is based on the information available at the time of adjudication.

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 8, 2017	Designated Doctor Examination: 99456-W7-RE	\$500.00	\$500.00
February 8, 2017	Designated Doctor Examination: 99456-W8-RE	\$250.00	\$250.00
February 8, 2017	Work Status Report: 99080-73	\$15.00	\$0.00
Total		\$765.00	\$750.00

#### 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 §134.235 sets out the fee guidelines for return to work evaluations.
3. 28 Texas Administrative Code §134.240 sets out the fee guidelines for designated doctor examinations.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 790 – This charge was reimbursed in accordance to the Texas medical fee guideline.
  - P12 – Workers' compensation jurisdictional fee schedule adjustment.
  - Notes: "Status: Approved Claim Number: ... PAY 100 % PER STATE REGULATION OF DDE"

- Notes: "This bill was denied because there is no W-9 on file for this provider. Please submit the W-9, as it is needed before payment can be processed."

### Issues

1. Did Lion Insurance Company respond to the medical fee dispute?
2. Is Lion Insurance Company's reason for denial of payment supported?
3. Is Sean McConathy, D.C. entitled to reimbursement for the disputed services?

### Findings

1. The Austin carrier representative for Lion Insurance Company is JT Parker & Associates. JT Parker & Associates acknowledged receipt of the copy of this medical fee dispute on November 1, 2017. 28 Texas Administrative Code §133.307 states, in relevant part:

(d) Responses. Responses to a request for MFDR shall be legible and submitted to the division and to the requestor in the form and manner prescribed by the division.

- (1) Timeliness. The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile **within 14 calendar days after the date the respondent received the copy of the requestor's dispute** [emphasis added]. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information.

Review of the documentation finds that no response has been received on behalf of Lion Insurance Company from JT Parker & Associates to date. The division concludes that Lion Insurance Company failed to respond within the timeframe required by §133.307(d)(1). For that reason the division will base its decision on the information available.

2. Dr. McConathy is seeking reimbursement for a designated doctor examination performed on February 8, 2017. Lion Insurance Company denied the disputed examination stating, "This bill was denied because there is no W-9 on file for this provider. Please submit the W-9, as it is needed before payment can be processed."

Review of the submitted documentation finds that a W-9 was provided by Dr. McConathy. The division concludes that Lion Insurance Company's denial of payment is not supported.

3. Because the insurance carrier's denial of payment was not supported, Dr. McConathy is eligible for reimbursement of the disputed services as follows:

28 Texas Administrative Code §134.235 states in relevant part,

The following shall apply to return to work (RTW)/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 maximum medical improvement/ impairment rating (MMI/IR) is performed or not, the reimbursement shall be \$500 in accordance with §134.240 of this title and shall include division-required reports...

Further, 28 Texas Administrative Code §134.240 (2) states:

When multiple examinations under the same specific Division order are performed concurrently under paragraph (1)(C) - (F) of this subsection:

- (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in §134.235 of this title;
- (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in §134.235 of this title; and
- (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in §134.235 of this title.

The submitted documentation indicates that Dr. McConathy performed examinations to determine whether the injured employee's disability was related to the compensable injury and the injured employee's ability to

return to work, as ordered by the division. Therefore, the maximum allowable reimbursement for these examinations is \$750.00.

Per 28 Texas Administrative Code §134.239, "When billing for a work status report that is not conducted as a part of the examinations outlined in §134.240 and §134.250 of this title, refer to §129.5 of this title." Therefore, the filing of the DWC-073 is not separately payable when provided in conjunction with a designated doctor examination performed according to 28 Texas Administrative Code §134.240.

The total reimbursement allowable for the services in dispute is \$750.00. This amount 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 \$750.00.

**ORDER**

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$750.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

**Authorized Signature**

	Laurie Garnes	April 27, 2018
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 Rule §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 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. **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.**