



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
MARCUS P. HAYES, DC

Respondent Name
WC SOLUTIONS

MFDR Tracking Number
M4-18-1292-01

Carrier's Austin Representative
Box Number 19

MFDR Date Received
DECEMBER 29, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "In this particular case, the DD addressed MMI (with subsequent IR determination) and extent of injury determination. Therefore, both were addressed as the treating doctor and patient were in disagreement with the DD's finding of MMI and extent of injury. Therefore, the billing codes submitted reflected the issue addressed by the DD as per sections 408.0041(f-2) and 408.0041 (h) of the Texas Labor Code & Rule §126.17."

Amount in Dispute: \$500.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Marcus Paul Hayes was not appointed by TDI-DWC to make an Extent of Injury determination and as such, he should not be reimbursed for the 99456-RE. He was reimbursed for the 99456-NM Alternate Designated Doctor MMI certification."

Response Submitted By: STARR Comprehensive Solutions, Inc.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: October 18, 2017, CPT Code 99456-RE Alternate Designated Doctor for Extent of Injury Evaluation, \$500.00, \$0.00

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

- 1. 28 Texas Administrative Code §133.307, effective June 1, 2012, sets out the procedures for resolving medical fee disputes.
2. Texas Labor Code §408.0041, effective September 1, 2011, provides for the policies and procedures for Designated Doctor Examinations.
3. 28 Texas Administrative Code §126.17, effective January 6, 2013, sets the reimbursement guidelines for alternate examinations after a designated doctor examination.

4. The services in dispute were reduced/denied by the respondent with the following reason codes:
- 96-Non-covered charge(s).
 - 96-Per TDI and Medicare rules, there are no provisions established for reimbursement of this service. Evaluation of extent of injury by an examiner chosen by the treating doctor is non-reimbursable.
 - W3-Additional reimbursement made on reconsideration.
 - 193-Original payment decision is being maintained. This claim was processed properly the first time.
 - W3/193-Per rule 134.804, W3 is to be used when a payment is made following a request for reconsideration. The service adjustment amount associated with this code may be zero. Original payment decision is being maintained.

Issues

1. Is the respondent's denial of payment supported?
2. Is the requestor entitled to reimbursement for code 99456-RE?

Findings

1. On the disputed date of service, the requestor billed CPT codes 99456-NM and 99456-RE. The respondent paid code 99456-NM and is not in dispute. The respondent denied payment for code 99456-RE based upon "96-Per TDI and Medicare rules, there are no provisions established for reimbursement of this service. Evaluation of extent of injury by an examiner chosen by the treating doctor is non-reimbursable."

The respondent contends that reimbursement is not due because, "Marcus Paul Hayes was not appointed by TDI-DWC to make an Extent of Injury determination and as such, he should not be reimbursed for the 99456-RE. "

The requestor contends that payment is due because "In this particular case, the DD addressed MMI (with subsequent IR determination) and extent of injury determination. Therefore, both were addressed as the treating doctor and patient were in disagreement with the DD's finding of MMI and extent of injury. Therefore, the billing codes submitted reflected the issue addressed by the DD as per sections 408.0041(f-2) and 408.0041 (h) of the Texas Labor Code & Rule §126.17."

To determine if reimbursement is due the division refers to following statute:

- Texas Labor Code §408.0041(a)(3) "At the request of an insurance carrier or an employee, or on the commissioner 's own order, the commissioner may order a medical examination to resolve any question about: (3) the extent of the employee 's compensable injury."
- Texas Labor Code §408.0041(f-2) states, "An employee required to be examined by a designated doctor may request a medical examination to determine maximum medical improvement and the employee 's impairment rating from the treating doctor or from another doctor to whom the employee is referred by the treating doctor if:(1) the designated doctor 's opinion is the employee 's first evaluation of maximum medical improvement and impairment rating; and 2) the employee is not satisfied with the designated doctor 's opinion".
- Texas Labor Code §408.0041(f-4) states, "The commissioner by rule shall adopt guidelines prescribing the circumstances under which an examination by the employee 's treating doctor or another doctor to whom the employee is referred by the treating doctor to determine any issue under Subsection (a), other than an examination under Subsection (f-2), may be appropriate."
- 28 Texas Administrative Code §126.17(a)(1-3), states "An examination by the injured employee's treating doctor or another doctor to whom the injured employee is referred by the treating doctor 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."

- 28 Texas Administrative Code §134.235 states “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. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee.”

Based upon the above referenced statute and submitted documentation the division finds:

- The August 16, 2017 Designated Doctor report from Charles. W. Hebert, DC notes that he examined the claimant to determine MMI/IR and extent of injury.
- The designated doctor issued an opinion on the extent of injury issue.
- The requestor noted that the injured employee was dissatisfied with the Designated Doctor’s opinion.
- There is no evidence to support the treating doctor or the referral doctor had already provided the injured employee with a written report addressing the extent of injury issue.
- The requestor provided an alternate extent of injury examination.
- The requestor billed CPT code 99456-RE for the alternate extent of injury examination.
- Per 28 Texas Administrative Code §134.235, CPT code 99456-RE is billed “When conducting a division or insurance carrier requested RTW/EMC examination.”
- The alternate extent of injury examination was not requested by the division or insurance carrier.
- The requestor used the incorrect code to bill for the services rendered to claimant per 28 Texas Administrative Code §134.235. As a result, the requestor is not entitled to reimbursement.

Conclusion

For the reasons stated above, the Division finds that the requestor has not established that 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

Medical Fee Dispute Resolution Officer

Date

7/3/2018

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.