



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 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

LAWRENCE LIGON, MD

Respondent Name

AMERICAN ZURICH INSURANCE CO

MFDR Tracking Number

M4-18-1684-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

JANUARY 29, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The carrier has not paid this claim in accordance and in compliance with TDI-DWC Rule 133 and 134."

Amount in Dispute: \$350.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "According to his position statement that was attached to the Medical Fee Dispute Resolution request, he claims to be a designated doctor, providing a designated doctor examination but with no payment being received. First, Dr. Login is not the designated doctor...he examined the claimant after the MMI and impairment rating dispute had already been resolved through the Hearing Process. We are attached a copy of the Hearing Officer's April 18, 2017 Contested Case Hearing Decision and Order as well as the Appeals Panel's Decision dated July 5, 2017. The Appeals Panel allowed the Hearing Officer's Decision and Order to become final...The provider is not entitled to any reimbursement."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 20, 2017	CPT Code 99456-NM	\$350.00	\$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 sets out the procedures for resolving medical fee disputes.
2. Texas Labor Code §408.0041 effective September 1, 2011 sets out the procedures regarding Designated Doctor Examinations.
3. Texas Labor Code §408.123 effective September 1, 2005 sets out the procedures regarding Certification of Maximum Medical Improment and Impairment Rating evaluations.
4. 28 Texas Administrative Code §130.12, effective March 14, 2004, sets out the procedures for Finality of the

First Certification of Maximum Medical Improvement and/or First Assignment of Impairment Rating.

5. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 151-Payment adjusted because the payer deems the information does not support his many services.
 - W3-Additional payment made on appeal/reconsideration.
 - 5056-Based on the receipt of additional information and/or clarification, we are recommending further payment be made for the above noted procedure code(s).
 - 184-The prescribing/Ordering provider is not eligible to prescribe/order the service billed.

Issues

Is the requestor entitled to reimbursement for CPT code 99456-NM rendered on July 20, 2017?

Findings

1. According to the explanation of benefits, the respondent denied reimbursement for CPT code 99456-NM rendered on July 20, 2017 based upon reason "184-The prescribing/Ordering provider is not eligible to prescribe/order the service billed."
2. The respondent wrote, "Dr. Login is not the designated doctor...he examined the claimant after the MMI and impairment rating dispute had already been resolved through the Hearing Process. We are attached a copy of the Hearing Officer's April 18, 2017 Contested Case Hearing Decision and Order as well as the Appeals Panel's Decision dated July 5, 2017. The Appeals Panel allowed the Hearing Officer's Decision and Order to become final...The provider is not entitled to any reimbursement."
3. To determine if reimbursement is due the division refers to the following statute:
 - Texas Labor Code §408.0041(f) states, "Unless otherwise ordered by the commissioner, the insurance carrier shall pay benefits based on the opinion of the designated doctor during the pendency of any dispute. If an insurance carrier is not satisfied with the opinion rendered by a designated doctor under this section, the insurance carrier may request the commissioner to order an employee to attend an examination by a doctor selected by the insurance carrier."
 - 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)(3) states, "The commissioner shall provide the insurance carrier and the employee with reasonable time to obtain and present the opinion of a doctor selected under Subsection (f) or (f-2) before the commissioner makes a decision on the merits of the issue."
 - Texas Labor Code §408.123(a) states, "After an employee has been certified by a doctor as having reached maximum medical improvement, the certifying doctor shall evaluate the condition of the employee and assign an impairment rating using the impairment rating guidelines described by Section 408.124. If the certification and evaluation are performed by a doctor other than the employee's treating doctor, the certification and evaluation shall be submitted to the treating doctor, and the treating doctor shall indicate agreement or disagreement with the certification and evaluation."
 - Texas Labor Code §408.123(d) states "Except as otherwise provided by this section, an employee's first valid certification of maximum medical improvement and first valid assignment of an impairment rating is final if the certification or assignment is not disputed before the 91st day after the date written notification of the certification or assignment is provided to the employee and the carrier by verifiable means."
 - 28 Texas Administrative Code §130.12(a)(1) states, "The certifications and assignments that may become final are: (1) The first valid certification of MMI and/or IR assigned or determination of no impairment."
 - 28 Texas Administrative Code §130.12(b)(1) states, "A first MMI/IR certification must be disputed within 90 days of delivery of written notice through verifiable means, including IRs related to EOI disputes. The notice must contain a copy of a valid Form TWCC 69, Report of Medical Evaluation, as described in subsection (c). The 90-day period begins on the day after the written notice is delivered to the party wishing to dispute a certification of MMI or an IR assignment, or both. The 90-day period may not be extended."
 - 28 Texas Administrative Code §130.12(b)(4) states, "The first certification of maximum medical improvement and/or impairment rating may be disputed after the 90-day period as provided in §408.123(e) of the Texas Labor Code."

4. The division reviewed the submitted documentation and finds:
- The requestor wrote that the purpose of the July 20, 2017 examination was part of a “Certifying Doctor Examination”.
 - The requestor wrote that the claimant was referred by the treating physician, Selena Gray, DC.
 - On October 5, 2016, Dr. Mark Mason at the request of the treating doctor performed a Certifying Doctor Examination and determined claimant had reached MMI on August 24, 2016 with a 10% impairment.
 - The Contested Case Hearing decision issued on April 13, 2017 found, “The first certification of maximum medical improvement and assigned impairment ratings from Dr. Mark Mason on October 5, 2016 became final under Texas Labor Code §408.123 and 28 TAC §130.12.”
 - Dr. Mason’s October 5, 2016 certification of MMI/IR is final.
 - Texas Labor Code §408.123 and 28 Texas Administrative Code §130.12 do not provide for subsequent certifying MMI/IR evaluations after a final certification of MMI/IR has been performed.
 - The requestor’s July 20, 2017 Certifying MMI evaluation was not in accordance with Texas Labor Code §408.123 and 28 Texas Administrative Code §130.12.
 - The requestor is not due reimbursement for CPT code 99456-NM.

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 reimbursement for the disputed services.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	5/18/2018 Date
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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.