



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

GABRIEL JASSO PH.D

Respondent Name

STATE OFFICE OF RISK MANAGEMENT

MFDR Tracking Number

M4-18-1941-01

Carrier's Austin Representative

Box Number 45

MFDR Date Received

FEBRUARY 9, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The carrier has not paid this claim in accordance and compliance with TDI-DWC Rule 133 and 134...**REFERENCE TO DESIGNATED DOCTOR REFEREED TESTING.**"

Amount in Dispute: \$2,164.91

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Upon notification of this dispute the Office performed a comprehensive review of the charges listed on the DWC60 and found that this exam was **not** referred by Dr. Gabriel Habib, the Division ordered Designated Doctor (Exhibit A). Dr. Habib was appointed by the Division on August 29, 2017. Dr. Jasso's examination occurred on August 7, 2017, three weeks before Dr. Habib was appointed. Further research on the requestor's billing found that the doctor listed in box 17 of the CMS-1500 is not the Division ordered designated doctor nor does the carrier have documentation to support this doctor is being referred by the treating doctor to perform a MMI/IR exam (Exhibit B) as Dr. Ehsanzadeh has not filed a valid DWC69 with the carrier. Moreover, Dr. Ehsanzadeh was not certified as a designated doctor at the time of Dr. Jasso's examination, and was not certified until February 6, 2018 (Exhibit C). Accordingly, neither TDI DWC Rule 127.10, 133 or 134 referencing Designated Doctor Referred testing are applicable to these services."

Response Submitted by: SORM

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
August 7, 2017	CPT Code 90791 (X2) Psychiatric Diagnostic Evaluation	\$212.83	\$0.00
	CPT Code 96101 (X13) Psychological Testing	\$1,952.08	\$0.00

TOTAL		\$2,164.91	\$0.00
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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, outlines the statute for Designated Doctor examinations.
3. Texas Labor Code § 408.023, effective September 1, 2009, outlines the statute of Treating Doctor duties.
4. Texas Labor Code § 408.025, effective June 9, 2017, requires the treating doctor to manage the claimant's care.
5. 28 Texas Administrative Code §127.10, effective September 1, 2012, outlines the general procedures for Designated Doctor examinations.
6. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers' compensation system.
7. Neither party to the dispute submitted any explanation of benefits to support the issue or reason for denial.

Issues

Is the respondent's denial of payment for CPT code 90791 (X2) and 96101(13) rendered on August 7, 2017 supported?

Findings

The requestor is seeking dispute resolution of \$2,164.91 for CPT code 90791 (X2) and 96101(13) rendered on August 7, 2017. The requestor wrote that reimbursement is due because the disputed testing was requested by the Designated Doctor.

The respondent argues that payment is not due because, "this exam was **not** referred by Dr. Gabriel Habib, the Division ordered Designated Doctor (Exhibit A). Dr. Habib was appointed by the Division on August 29, 2017. Dr. Jasso's examination occurred on August 7, 2017, three weeks before Dr. Habib was appointed. Further research on the requestor's billing found that the doctor listed in box 17 of the CMS-1500 is not the Division ordered designated doctor nor does the carrier have documentation to support this doctor is being referred by the treating doctor to perform a MMI/IR exam (Exhibit B) as Dr. Ehsanzadeh has not filed a valid DWC69 with the carrier. Moreover, Dr. Ehsanzadeh was not certified as a designated doctor at the time of Dr. Jasso's examination, and was not certified until February 6, 2018 (Exhibit C). Accordingly, neither TDI DWC Rule 127.10, 133 or 134 referencing Designated Doctor Referred testing are applicable to these services."

Texas Labor Code §408.0041, § 408.023, §408.025, and 28 Texas Administrative Code §127.10 provide the rules regarding designated doctor examinations and treating doctor responsibilities.

Texas Labor Code §408.0041, states "DESIGNATED DOCTOR EXAMINATION. (a) 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:

- (1) the impairment caused by the compensable injury;
- (2) the attainment of maximum medical improvement;
- (3) the extent of the employee's compensable injury;
- (4) whether the injured employee's disability is a direct result of the work-related injury;
- (5) the ability of the employee to return to work; or
- (6) issues similar to those described by Subdivisions (1)-(5)."

Texas Labor Code § 408.023(l)) states “The injured employee's treating doctor is responsible for the efficient management of medical care as required by Section 408.025(c) and commissioner rules.”

Texas Labor Code §408.025(c) states, “The treating doctor is responsible for maintaining efficient utilization of health care.”

28 Texas Administrative Code §127.10(3)(c) states, “The designated doctor shall perform additional testing when necessary to resolve the issue in question. The designated doctor shall also refer an injured employee to other health care providers when the referral is necessary to resolve the issue in question and the designated doctor is not qualified to fully resolve the issue in question. Any additional testing or referral required for the evaluation is not subject to preauthorization requirements nor shall those services be denied retrospectively based on medical necessity, extent of injury, or compensability in accordance with the Labor Code §408.027 and §413.014, Insurance Code Chapter 1305, or Chapters 10, 19, 133, or 134 of this title (relating to Workers' Compensation Health Care Networks, Agents' Licensing, General Medical Provisions, and Benefits--Guidelines for Medical Services, Charges, and Payments, respectively) but is subject to the requirements of §180.24 of this title (relating to Financial Disclosure). Any additional testing or referral examination and the designated doctor's report must be completed within 15 working days of the designated doctor's physical examination of the injured employee unless the designated doctor receives division approval for additional time before the expiration of the 15 working days. If the injured employee fails or refuses to attend the designated doctor's requested additional testing or referral examination within 15 working days or within the additional time approved by the division, the designated doctor shall complete the doctor's report based on the designated doctor's examination of the injured employee, the medical records received, and other information available to the doctor and indicate the injured employee's failure or refusal to attend the testing or referral examination in the report.”

The division reviewed the submitted documentation and finds:

- a. On August 29, 2017 the division ordered a designated doctor examination to determine Maximum Medical Improvement (MMI), Impairment Rating (IR), Extent of Injury, and Return to Work with Dr. Gabriel B. Habib.
- b. On September 14, 2017, Dr. Habib examined the claimant per the division order.
- c. The disputed date of service is August 7, 2017. This date is prior to the Designated Doctor examination.
- d. The submitted report indicates that Dr. Jasso was providing an opinion on MMI/IR.
- e. The requestor noted on the bill that Dr. Parvaneh Ehsanzadeh referred the claimant to the requestor for testing.
- f. The claimant's treating doctor is Dr. Veronika Nicholson.
- g. No documentation was submitted that Dr. Nicholson recommended the disputed services or referred claimant to Dr. Ehsanzadeh or Dr. Jasso.
- h. No documentation was submitted that Dr. Habib referred claimant for testing.

Based upon the above applicable statute and submitted documentation, the requestor did not support that the disputed services, code 90791 and 96116, were part of a division ordered designated doctor examination or that the treating doctor recommended them. As a result, the respondent's denial of payment is supported.

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

_____	_____	3/2/2018
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 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.