



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

CHARLES KENNEDY, MD

Respondent Name

IMPERIUM INSURANCE CO

MFDR Tracking Number

M4-18-3682-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

JUNE 1, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "[Claimant] was scheduled by the adjuster for a POST DD-RME to address MMI, IR, Extent Of Injury and Multiple Impairments. As of today's date my office has not received payment."

Amount in Dispute: \$375.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The respondent did not submit a position summary.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: December 12, 2017, CPT Code 99456-RE (X4) Post Designated Doctor Evaluation, \$1,300.00, \$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, effective May 31, 2012, sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §126.6, effective January 1, 2007, sets out the provisions for required medical examinations.
3. 28 Texas Administrative Code §134.210, effective July 7, 2016, provides the medical fee guideline for division specific services.
4. 28 Texas Administrative Code §134.235, effective July 7, 2016, sets the reimbursement guidelines for return to work evaluations.
5. 28 Texas Administrative Code §134.240, effective July 7, 2016, sets the reimbursement guidelines for

Designated Doctor Examinations.

6. 28 Texas Administrative Code §134.250, effective July 7, 2016, sets the reimbursement guidelines for Maximum Medical Improvement Evaluations and Impairment Rating Examinations.
7. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
  - 18-Exact duplicate claim/service.
  - 247-A payment or denial has already been recommended for this service.
  - 252-An attachment/other documentation is required to adjudicate this claim/service.
  - 6503-Payment denied, pending receipt of medical records with copy of bill attached.
8. The Division placed a copy of the Medical Fee Dispute Resolution request in the insurance carrier's Austin representative box, which was acknowledged received on June 8, 2018. Per 28 Texas Administrative Code §133.307(d)(1), "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. 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." The insurance carrier did not submit any response for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.

**Issues**

Is the requestor entitled to reimbursement for CPT code 99456-RE (X4)?

**Findings**

On the disputed date of service, the requestor billed \$1,300.00 for CPT codes 99456-RE(X3), and 99456-MI. The respondent paid \$0.00 based upon "6503-Payment denied, pending receipt of medical records with copy of bill attached," and "252-An attachment/other documentation is required to adjudicate this claim/service."

A review of the DWC-60 finds the service in dispute is 99456-RE (X4); however, the corresponding medical bill and explanation of benefits indicate the requestor billed \$50.00 for 99456-MI not 99456-RE. The division finds based upon the medical bill and explanation of benefits, the requestor did not support bill for 99456-RE for \$50.00 was submitted to the insurance carrier originally and for reconsideration prior to seeking medical fee dispute resolution; therefore, it is not eligible for medical fee dispute resolution per 28 Texas Administrative Code §133.307. The code 99456-RE for \$50.00 will not be considered further.

A. The following statute is applicable to the disputed services:

- 28 Texas Administrative Code §126.6(a) states, "When a request is made by the insurance carrier (carrier), or the Division, for a medical examination, the Division shall determine if an examination should occur. The Division shall grant or deny the request within seven days of the date the request is received by the Division. A copy of the action of the Division shall be sent to the injured employee (employee), the employee's representative (if any), and the carrier. The notice shall explain the circumstances under which an employee may experience loss of benefits and penalty exposure for failing to attend the examination as well as the need to reschedule a missed examination. An agreement between the parties for an examination under §126.5 of this title (relating to Entitlement and Procedure for Requesting Required Medical Examinations) that the carrier has a right to has the same effect as the action of the Division."
- 28 Texas Administrative Code §126.6(f) states, "An RME doctor who, subsequent to a designated doctor's examination, determines the employee has reached maximum medical improvement (MMI) or who assigns an impairment rating, shall complete and file the report as required by §130.1 and §130.3 of this title (relating to Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment and Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment by Doctor Other than the Treating Doctor). Otherwise, the RME doctor shall not certify MMI or assign an impairment rating. If the RME doctor disagrees with the designated doctor's opinion regarding MMI, the RME doctor's report shall explain why the RME doctor believes the designated doctor was mistaken or why the designated doctor's opinion is no longer valid. Other reports shall be completed in the form and manner prescribed by

the Division and shall be sent to the carrier, the employee, the employee's representative, if any, the treating doctor, and Division no later than 10 days after the examination.”

- 28 Texas Administrative Code §126.6(h) states, “An RME doctor who, subsequent to a designated doctor's examination, addresses issues other than those listed in subsections (f) and (g) of this section, shall file a narrative report within seven days of the date of the examination of the employee. This report shall be filed with the treating doctor and the carrier by facsimile or electronic transmission. In addition, the RME doctor shall file the report with the employee and the employee's representative (if any) by facsimile or by electronic transmission if the RME doctor has been provided with a facsimile number or email address for the recipient, otherwise, the RME doctor shall send the report by other verifiable means.,
- 28 Texas Administrative Code §126.6(i) states, “A doctor who conducts an examination solely under the authority of this rule shall not be considered a designated doctor under the Labor Code §408.0041, §408.122 or §408.125. Examinations with a designated doctor are not subject to any limitations under the provisions for RMEs.
- 28 Texas Administrative Code §134.210(b)(2) states, “Payment policies relating to coding, billing, and reporting for workers' compensation specific codes, services, and programs are as follows: Modifying circumstance shall be identified by use of the appropriate modifier following the appropriate Level I (CPT codes) and Level II HCPCS codes. Where HCPCS modifiers apply, insurance carriers shall treat them in accordance with Medicare and Texas Medicaid rules. Additionally, division-specific modifiers are identified in subsection (e) of this section. When two or more modifiers are applicable to a single HCPCS code, indicate each modifier on the bill.”
- 28 Texas Administrative Code §134.210(e) states, “ The following division modifiers shall be used by health care providers billing professional medical services for correct coding, reporting, billing, and reimbursement of the procedure codes:  
(5) MI, multiple impairment ratings--This modifier shall be added to CPT code 99455 when the designated doctor is required to complete multiple impairment ratings calculations.  
(7) RE, return to work (RTW) and/or evaluation of medical care (EMC)--This modifier shall be added to CPT code 99456 when a RTW or EMC examination is performed.
- 28 Texas Administrative Code §134.240(2)(A-C) states, “When multiple examinations under the same specific division order are performed concurrently under paragraph (1)(C) - (F) of this section:  
(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.”
- 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.”

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

- The disputed services relate to a required medical examination (RME) requested by the insurance carrier with a doctor of their choice.
- The RME was scheduled with Dr. Charles Kennedy.
- Dr. Kennedy performed the RME on December 12, 2017.

- A review of the submitted report supports extent of injury, MMI/IR, and Return to Work evaluation.
- The requestor billed for the RME in accordance with 28 Texas Administrative Code §134.235.
- The insurance carrier’s denial of payment is not supported.

C. The division finds the appropriate reimbursement for the disputed services is:

EVALUATION	STATUTE REFERENCE	MAR
Extent of Injury	28 Texas Administrative Code §134.235	\$500.00
Return to Work	28 Texas Administrative Code §134.235 and 28 Texas Administrative Code §134.240(2)(A-C)	\$250.00
TOTAL		\$750.00

D. Is the requestor due additional reimbursement?

The division finds the appropriate reimbursement for the disputed services is \$750.00. The respondent paid \$0.00. The requestor is due the difference between MAR and paid = \$750.00.

**Conclusion**

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due. As a result, the amount ordered is \$750.00.

***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$750.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

**9/26/2018**  
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.**