



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

DANIEL MAIRE, DC

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-18-4314-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

JULY 16, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "CARRIER IS REQUIRED TO PAY DESIGNATED DOCTOR EXAMS."

Amount in Dispute: \$650.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requester, as designated doctor placed the claimant at 15% impairment per the narrative report and 5% per the DWC69 form. Since the treating doctor is required to indicate approval or not on the DWC69 the certifying doctor's MMI certification, the percent impairment in section IV should be the same as that given in the narrative report. However, the report states the impairment is 15%. For this reason Texas Mutual Insurance declined to issue payment."

Response Submitted by: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: February 16, 2018, CPT Code 99456-W5-WP Maximum Medical Improvement/Impairment Rating Evaluation, \$650.00, \$350.00

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 May 31, 2012 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §127.10, effective September 1, 2012, sets out the general procedures for designated doctor examinations.
3. 28 Texas Administrative Code §127.220, effective September 1, 2012 outlines the duties and responsibilities for designated doctor reports.

4. 28 Texas Administrative Code §130.1, effective August 25, 2013, provides the procedures for Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment.
5. The services in dispute were reduced/denied by the respondent with the following claims adjustment reason codes:
 - CAC-P12-Workers' compensation state fee schedule adjustment.
 - CAC-16-Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.
 - 225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
 - 892-Denied in accordance with DWC rules and/or medical fee guideline including current CPT code descriptions/instructions.
 - CAC-W3, 350-In accordance with TDI-DWC rule 134.804, this bill has been identified as a request for reconsideration or appeal.
 - CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
 - 724-No additional payment after a reconsideration of services.

Issues

Is the requestor due reimbursement for code 99456-W5-WP?

Findings

On February 16, 2018, the claimant attended a Designated Doctor evaluation to determine MMI/IR with the requestor. The requestor billed the respondent \$650.00 for the MMI/IR evaluation with CPT code 99456-W5-WP. The respondent denied reimbursement based upon documentation and billing errors.

The respondent contends that reimbursement is not due because "The requester, as designated doctor placed the claimant at 15% impairment per the narrative report and 5% per the DWC69 form. Since the treating doctor is required to indicate approval or not on the DWC69 the certifying doctor's MMI certification, the percent impairment in section IV should be the same as that given in the narrative report. However, the report states the impairment is 15%. For this reason Texas Mutual Insurance declined to issue payment."

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

- 28 Texas Administrative Code §127.10(d) states, "Any evaluation relating to either maximum medical improvement (MMI), an impairment rating, or both, shall be conducted in accordance with §130.1 of this title (relating to Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment). If a designated doctor is simultaneously requested to address MMI and/or impairment rating and the extent of the compensable injury in a single examination, the designated doctor shall provide multiple certifications of MMI and impairment ratings that take into account each possible outcome for the extent of the injury. A designated doctor who determines the injured employee has reached MMI or who assigns an impairment rating, or who determines the injured employee has not reached MMI, shall complete and file a report as required by §130.1 of this title and §130.3 of this title (relating to Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment by a Doctor Other than the Treating Doctor). If the designated doctor provided multiple certifications of MMI and impairment ratings, the designated doctor must file a Report of Medical Evaluation under §130.1(d) of this title for each impairment rating assigned and a Designated Doctor Examination Data Report pursuant to §127.220 of this title (relating to the Designated Doctor Reports) for the doctor's extent of injury determination. The designated doctor, however, shall only submit one narrative report required by §130.1(d)(1)(B) of this title for all impairment ratings assigned and extent of injury findings. All designated doctor narrative reports submitted under this subsection shall also comply with the requirements of §127.220(a) of this title.
- 28 Texas Administrative Code §127.220(b) states, "Designated doctors who perform examinations under §127.10(d) or (e) of this title shall also complete and file the division forms required by those subsections with their narrative reports. Designated doctors shall complete and file these forms in the manner required by applicable division rules."
- 28 Texas Administrative Code §130.1(d)(1)(B)(iv) states, "Reporting. Certification of MMI, determination of permanent impairment, and assignment of an impairment rating (if permanent impairment exists) for the current compensable injury requires completion, signing, and submission of the Report of Medical Evaluation and a narrative report. (B) The Report of Medical Evaluation includes an attached narrative report. The

narrative report must include the following: (vi) diagnosis and clinical findings of permanent impairment as stated in subsection (c)(3).”

- 28 Texas Administrative Code §130.1(c)(3) states, “Assignment of an impairment rating for the current compensable injury shall be based on the injured employee’s condition on the MMI date considering the medical record and the certifying examination. An impairment rating is invalid if it is based on the injured employee’s condition on a date that is not the MMI date. An impairment rating and the corresponding MMI date must be included in the Report of Medical Evaluation to be valid.”
- 28 Texas Administrative Code §134.250(4)(C)(iii) states, “If the examining doctor performs the MMI examination and the IR testing of the musculoskeletal body area(s), the examining doctor shall bill using the appropriate MMI CPT code with modifier ‘WP.’ Reimbursement shall be 100 percent of the total MAR.”
- 28 Texas Administrative Code §134.250(3)(C) states, “The following applies for billing and reimbursement of an MMI evaluation. (C) An examining doctor, other than the treating doctor, shall bill using CPT code 99456. Reimbursement shall be \$350.”

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

- The requestor noted on the DWC 69 report the claimant was at MMI on August 30, 2017 with a 5% impairment rating.
- The requestor noted on the narrative report the claimant was at MMI on August 30, 2017 with a 15% impairment rating.
- Per 28 Texas Administrative Code §130.1(c)(3), the impairment rating is invalid because the impairment rating on the narrative report does not correspond to the Report of Medical Evaluation.
- The respondent’s denial of payment for documentation and billing errors for the impairment rating is supported.
- The requestor supported billing the MMI evaluation based upon 28 Texas Administrative Code §134.250; therefore, reimbursement of \$350.00 is recommended.

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 \$350.00.

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 \$350.00 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, 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.