



**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**

SUSAN VAN DE WATER, MD

**Respondent Name**

GREAT MIDWEST INSURANCE CO

**MFDR Tracking Number**

M4-19-0221-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

SEPTEMBER 17, 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."

**Amount in Dispute:** \$300.00

**RESPONDENT'S POSITION SUMMARY**

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

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
April 17, 2018	CPT Code 99456-W5-WP (X3) Maximum Medical Improvement/Impairment Rating Evaluation	\$300.00	\$300.00
	CPT Code 99456-SP	\$0.00	\$0.00
TOTAL		\$300.00	\$300.00

**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 §134.210, effective July 7, 2016, provides the medical fee guideline for division specific services.

3. 28 Texas Administrative Code §134.235, effective July 7, 2016, sets the reimbursement guidelines for return to work evaluations.
4. 28 Texas Administrative Code §134.240, effective July 7, 2016, sets the reimbursement guidelines for Designated Doctor Examinations.
5. 28 Texas Administrative Code §134.250, effective July 7, 2016, sets the reimbursement guidelines for Maximum Medical Improvement Evaluations and Impairment Rating Examinations.
6. The services in dispute were reduced/denied by the respondent with the following reason adjustment codes:
  - P12-Workers' compensation jurisdictional fee schedule adjustment.
  - 309-The charge for this procedure exceeds the fee schedule allowance
  - 1014-The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
  - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

### **Issues**

Is the requestor due additional reimbursement of \$300.00 for code 99456-W5-WP(X3)?

### **Findings**

On April 17, 2018, the claimant attended a Designated Doctor evaluation to determine MMI/IR. The requestor billed the respondent \$1,000.00 for the MMI/IR evaluation with CPT code 99456-W5-WP(X3) and 99456-SP. The respondent issued payment of \$700.00 based upon the fee guideline. The issue in dispute is whether the requestor is due additional reimbursement of \$300.00 for code 99456-W5-WP (X3).

The division, ordered the claimant to attend a designated doctor examination for MMI/IR evaluation of the claimant's "Upper Extremities," "Traumatic Brain Injury," and "Other Body Areas/Systems."

The requestor reported the following findings on the Designated Doctor Evaluation report:

- MMI: October 26, 2017
- Upper Extremity IR: 47%
- Face IR: 5%
- Head IR: 10%

The division finds the requestor addressed the MMI/IR of the body areas ordered by the division. The report supports the billing of MMI/IR (X3).

To determine the appropriate reimbursement the division refers to the following statutes:

- 28 Texas Administrative Code §134.210(b)(2) states, "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 §134.240(1)(A)(B) states, "Designated doctors shall perform examinations in accordance with Labor Code §§408.004, 408.0041, and 408.151 and division rules, and shall be billed and reimbursed as follows: (A) Impairment caused by the compensable injury shall be billed and reimbursed in accordance with §134.250 of this title, and the use of the additional modifier "W5" is the first modifier to be applied when performed by a designated doctor; (B) Attainment of maximum medical improvement shall be billed and reimbursed in accordance with §134.250 of this title, and the use of the additional modifier "W5" is the first modifier to be applied when performed by a designated doctor."
- 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.”
- 28 Texas Administrative Code §134.250 (4)(C)(i)(I)(II) states, “For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas. (i) Musculoskeletal body areas are defined as follows: (I) spine and pelvis; (II) upper extremities and hands.”
- 28 Texas Administrative Code §134.250 (4)(C)(ii) states, “The MAR for musculoskeletal body areas shall be as follows:
  - (I) \$150 for each body area if the diagnosis related estimates (DRE) method found in the AMA Guides fourth edition is used.
  - (II) If full physical evaluation, with range of motion, is performed:
    - (-a-) \$300 for the first musculoskeletal body area; and
    - (-b-) \$150 for each additional musculoskeletal body area.”
- 28 Texas Administrative Code §134.250 (4)(D)(i)(I)(II) states, “The following applies for billing and reimbursement of an IR evaluation. (D) Non-musculoskeletal body areas shall be billed and reimbursed using the appropriate CPT code(s) for the test(s) required for the assignment of IR. (i) Non-musculoskeletal body areas are defined as follows: (I) body systems; (II) body structures (including skin); and (III) mental and behavioral disorders.”
- 28 Texas Administrative Code §134.250 (4)(D)(v) states, “The MAR for the assignment of an IR in a non-musculoskeletal body area shall be \$150.”

The Division reviewed the submitted documentation and finds the following:

- The requestor billed 99456-W5-WP (X3) for the MMI/IR in accordance with 28 Texas Administrative Code §134.240 and §134.250(3) and (4).
- The division ordered the MMI/IR of 1 musculoskeletal and 2 non-musculoskeletal body areas.
- Per 28 Texas Administrative Code §134.250(3)(C) the appropriate reimbursement for the MMI evaluation is \$350.00.
- The report indicates the requestor performed ROM testing on upper extremity; therefore, the total reimbursement is \$300.00 per 28 Texas Administrative Code §134.250 (4)(C)(ii)(II)(a).
- Per 28 Texas Administrative Code §134.250 (4)(D)(v) the MAR for IR of 2 non-musculoskeletal areas = \$150.00 X 2 = \$300.00.
- Total for IR is \$600.00.
- The total due for the MMI/IR is \$950.00. The respondent paid \$650.00. The requestor is due the difference between MAR and paid of \$300.00.

**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 \$300.00.

***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 \$300.00 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

12/13/2018  
\_\_\_\_\_  
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.**