



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

CARLTON SMITH, MD

Respondent Name

AMERICAN ZURICH INSURANCE CO

MFDR Tracking Number

M4-19-0536-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

OCTOBER 1, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "As the claim was inappropriately denied, Medical Evaluators of Texas requests the remaining amount be paid, in the amount of \$150.00."

Amount in Dispute: \$150.00

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: May 31, 2018, CPT Code 99456-W5-WP (X4) Maximum Medical Improvement/Impairment Rating Evaluation, \$150.00, \$150.00

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.
 - Z710-The charge for this procedure exceeds the fee schedule allowance.

Issues

Is the requestor due additional reimbursement of \$150.00 for code 99456-W5-WP(X4)?

Findings

On May 31, 2018, the claimant attended a Designated Doctor evaluation to determine MMI/IR. The requestor billed the respondent \$1,100.00 for the MMI/IR evaluation with CPT code 99456-W5-WP(X4). The respondent issued payment of \$950.00 based upon the fee guideline. The issue in dispute is whether the requestor is due additional reimbursement of \$150.00.

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

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

- MMI: November 5, 2017
- Lumbar IR – 5%
- Right Knee IR – 4%
- Facial Contusion IR – 0%
- Chest Wall Contusion IR – 0%
- Groin Strain IR - 0%

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 (X4).

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; and (III) lower extremities (including feet)."

- 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 (X4) 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 2 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 the lumbar spine and lower extremity; therefore, the total reimbursement is \$450.00 per 28 Texas Administrative Code §134.250 (4)(C)(ii)(I)(a)(b).
- 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 \$750.00.
- The total due for the MMI/IR is \$1,100.00. The respondent paid \$950.00. The requestor is due the difference between MAR and paid of \$150.00.

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 \$150.00.

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 \$150.00 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.