



# 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**

KRISTIAN FIELDS, DC

**Respondent Name**

MITSUI SUMITOMO INSURANCE USA

**MFDR Tracking Number**

M4-19-0929-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

OCTOBER 17, 2018

#### REQUESTOR'S POSITION SUMMARY

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

**Amount in Dispute:** \$586.30

#### RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "Dr. Fields correctly used CPT Code 99456, and modifier W6; however, he also included modifier RE. Pursuant to DWC Rule 134.204(k), the RE modifier is used when the evaluation is conducted on the issues of return to work (RTW) or evaluation of medical care (EMC)...As neither of these issues were addressed in the subject evaluation, the bill was coded incorrectly, and denial of reimbursement was appropriate."

**Response Submitted by:** Law Offices of Adami, Shuffield, Scheinhing & Burns

#### SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 14, 2018	Cpt Code 99456-W6-RE Designated Doctor Extent of Injury Exam	\$500.00	\$500.00
	CPT Code 95831 X2 Muscle Testing	\$86.30	\$0.00
TOTAL		\$586.30	\$500.00

#### 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**

- 28 Texas Administrative Code §133.307 effective May 31, 2012 sets out the procedures for resolving medical

- fee disputes.
2. 28 Texas Administrative Code §134.240, effective July 7, 2016, sets the reimbursement guidelines for Designated Doctor Examinations.
  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 §134.210, effective July 7, 2016, sets out the reimbursement guidelines for division specific services.
  5. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets the reimbursement guidelines for the professional service.
  6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
    - 4-Required modifier missing or inconsistent w/proced.
    - 107-Denied qualifying svc not paid or identified.
    - W6-Designated Doctor Examination for Extent.
    - P13-Payment reduced/denied based on state WC regs/policies.
    - 234-This procedure is not paid separately.
    - Re-Return to work and/or Evaluation of Medical Care.
    - W3-Appeal/Reconsideration
    - DD has been asked to address Extent of Injury ONLY. As such, use of modifier RE is incorrect. 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.
    - Not a RTW or EMC exam. DD exam for EOI determination only. Any testing HCP deems necessary to determine EOI is included in the EOI exam reimbursement.

### **Issues**

Is the requestor entitled to reimbursement for CPT codes 99456-W6-RE and 95831 (X2) rendered on May 14, 2018?

### **Findings**

1. On the disputed date of service, the requestor billed CPT codes 99456-W6-RE and 95831 (X2).
2. According to the explanation of benefits, the respondent denied reimbursement for CPT code 99456-W6-RE because "4-Required modifier missing or inconsistent w/proced."
3. To determine if the respondent's denial of payment for code 99456-W6-RE is supported the division refers to the following statute:
  - 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."
  - 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:
    - (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.
    - (21) W6, designated doctor examination for extent--This modifier shall be added to the appropriate examination code performed by a designated doctor when determining extent of the injured employee's compensable injury.
  - 28 Texas Administrative Code §134.240(1)(C) states, “The following shall apply to designated doctor examinations. (1) 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:
 

(C) Extent of the employee's compensable injury shall be billed and reimbursed in accordance with §134.235 of this title, with the use of the **additional** modifier "W6". (emphasis added)
4. The division finds that per above referenced statutes, the requestor correctly billed for the extent of injury examination with CPT code 99456-W6-RE. As a result, reimbursement of \$500.00 is recommended.
  5. The requestor is also seeking medical fee dispute resolution for CPT code 95831 (X2).
  6. The respondent denied reimbursement for code 95831 (X2) based upon reason codes “107-Denied qualifying svc not paid or identified,” and “234-This procedure is not paid separately .”
  7. To determine if the respondent’s denial of payment for code 95831 (X2) is supported the division refers to the following statute:
    - Per 28 Texas Administrative Code §134.203(a)(5), “Medicare payment policies” when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare.”
    - Per 28 Texas Administrative Code §134.235, “Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee.”
  8. The division finds the following:
    - The requestor billed for the additional testing with code 95831 (X2).
    - CPT code 95831 is described as “Muscle testing, manual (separate procedure) with report; extremity (excluding hand) or trunk.
    - The requestor billed for 2 units of code 95831.
    - Per the code descriptor, CPT code 95831 has parenthetical statement “separate procedure.”
    - Per the CPT Medicine Guidelines, a “Separate Procedure” “should not be reported in addition to the code for the total procedure or service of which it is considered an integral component.”
    - The requestor’s submitted documentation did not meet the billing policy guidelines for “separate procedure.”
    - The requestor did not submit a separate muscle testing report to support billing code 95831(X2) in conjunction with the extent of injury examination.
    - The requestor did not support reimbursement is due for code 95831 (X2).

**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 \$500.00.

**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 \$500.00 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

\_\_\_\_\_  
Date

11/20/2018

**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.**