



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645
(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
DAVID WEST, DO

Respondent Name
NEW HAMPSHIRE INSURANCE CO

MFDR Tracking Number
M4-19-0222-01

Carrier's Austin Representative
Box 19

MFDR Date Received
SEPTEMBER 17, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Our office contacted the Insurance Carrier on 08/10/2018. We were informed the claim was reduced because \$130.00 is the co pay and the injured employee is responsible for paying this amount. This is a Designated Doctor Examination and the injured employee is not responsible for this claim or co pay."

Requestor's Supplemental Position Summary dated November 20, 2018: "Our office received your payment of \$13.50, balance remaining is \$116.50."

Amount in Dispute: \$130.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Upon receipt of MDR, the bill was sent for reconsideration. Once the bill has processed for payment I will file an addendum with the EOR and payment screen."

Respondent's Supplemental Position Summary dated October 16, 2018: "Upon receipt of MDR, payment was processed. Payment in the amount of \$0.24 was issued on 10/12/18."

Respondent's Supplemental Position Summary dated October 16, 2018: "Upon receipt of MDR, payment was processed. Payment in the amount of \$13.50 was issued on 10/12/18."

Response Submitted by: ESIS

SUMMARY OF FINDINGS

Table with 4 columns: Date of Service, Disputed Services, Amount In Dispute, Amount Due. It lists three CPT codes (99456-W5-NM, 99456-W6-RE, 99456-W8-RE) for the date April 18, 2018, with amounts of \$35.00, \$50.00, and \$25.00 respectively, totaling \$51.26.

April 18, 2018	CPT Code 99456-W5-MI	\$5.00	\$0.00
	CPT Code 99080-73	\$15.00	\$0.00
TOTAL		\$130.00	\$51.26

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 §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 insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 185-Service billed is included in the office visit or another procedure performed.
 - 442-Multiple Impairment ratings.
 - 459-Not at maximum medical improvement.
 - 45-Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement.
 - 97-The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
 - P14-The benefit for this service is included in the payment/allowance for another service/procedure that has been performed on the same day.
 - Any reduction is in accordance with the Integrated Health Plan, Inc. Contract.
 - TRR13-Services are included in the value of another procedure.

Issues

Is the requestor entitled to additional reimbursement?

Findings

1. The DWC-032 dated March 5, 2018, orders the claimant to attend a designated doctor examination for MMI/IR, Extent of Injury and Return to Work evaluation. The doctor is to evaluate the claimant's "Spine and Torso," and "Upper Extremities."
2. On the disputed date of service, the requestor billed \$1,165.00 for CPT codes 99456-W5-NM, 99456-W6-RE, 99456-W8-RE, 99456-W5-MI and 99080-73. The respondent originally paid \$1,035.00 based upon "Any reduction is in accordance with the Integrated Health Plan, Inc. Contract." Upon reconsideration, the requestor made an additional payment of \$13.74.
3. The following statute is applicable to the disputed services:
 - 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.
 - (6) NM, not at maximum medical improvement (MMI)--This modifier shall be added to the appropriate MMI CPT code to indicate that the injured employee has not reached MMI when the purpose of the examination was to determine MMI
 - (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.
 - (23) W8, designated doctor examination for return to work--This modifier shall be added to the appropriate examination code performed by a designated doctor when determining the ability of injured employee to return to work.”

- 28 Texas Administrative Code §134.240(1)((A-F) 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:
 - (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;
 - (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";
 - (E) Ability of the employee to return to work shall be billed and reimbursed in accordance with §134.235 of this title, with the use of the additional modifier "W8"; and

- 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.”

- 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)(B) states, “When multiple IRs are required as a component of a designated doctor examination under this title, the designated doctor shall bill for the number of body areas rated and be reimbursed \$50 for each additional IR calculation. Modifier "MI" shall be added to the MMI evaluation CPT code.”

4. Based upon the division rules and Order, the appropriate reimbursement for the disputed services is:

- CPT code 99456-W5-NM: Per 28 Texas Administrative Code §134.250(3)(C) the reimbursement is \$350.00.
- CPT code 99456-W5-MI: A review of the submitted report indicates the claimant had not reached MMI; therefore, an impairment rating was not calculated and reimbursement is not due.
- CPT code 99456-W6-RE: Per 28 Texas Administrative Code §134.235 and 28 Texas Administrative Code §134.240(2)(A-C) the reimbursement is \$500.00.
- CPT code 99456-W8-RE: Per 28 Texas Administrative Code §134.235 and 28 Texas Administrative Code §134.240(2)(A-C) the reimbursement is \$250.00.
- CPT code 99080-73: Per 28 Texas Administrative Code §134.235, division required reports are included in the reimbursement of RTW/EMC examinations.

5. The division finds the total allowable amount for the disputed services is \$1,100.00. The respondent paid \$1,048.74. The requestor is due the difference between MAR and paid = \$51.26.

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 \$51.26.

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 \$51.26 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

01/08/2019
Date

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.