



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

LAURA DEON, MD

Respondent Name

TRAVELERS INDEMNITY CO

MFDR Tracking Number

M4-19-2101-01

Carrier's Austin Representative

Box Number 05

MFDR Date Received

DECEMBER 11, 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: \$465.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Provider is not entitled to additional reimbursement for the MMI/impairment rating portion of the evaluation. The Carrier further disagrees that separate reimbursement is due for the DWC-73. Rule 134.235 states that reimbursement for the Return to Work evaluation shall include reimbursement for the Division-required reports."

Respondent's Position Summary Submitted By: Travelers

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Rows include August 17, 2018 with CPT codes 99456-W5-WP (X6), 99456-W8-RE, and 99080-73, and a TOTAL row.

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. 28 Texas Administrative Code §134.239, effective July 7, 2016, sets the rules for billing for work status reports.
7. 28 Texas Administrative Code §129.5, effective July 16, 2000, sets out the procedure for reporting and billing work status reports.
8. The insurance carrier reduced payment for the disputed services based upon the following claim adjustment reason codes:
 - P12-Workers' compensation jurisdictional fee schedule adjustment.
 - 97-The benefit for this service is included in the payment/allowance for another service/procedure that has already adjudicated.
 - 4150-An allowance has been paid for Designated Doctor Examination as outlined in 134.204(j) for attainment of maximum medical improvement. An additional allowance may be payable if a determination of the impairment caused by the compensable injury was also performed.
 - W3-Additional payment made on appeal/reconsideration.
 - 863-Reimbursement is based on the applicable reimbursement fee schedule.
 - 906-In accordance with clinical based coding edits (National Correct Coding Initiative/Outpatient Code Editor), component code of comprehensive medicine Evaluation and Management services procedure (90000-99999) has been disallowed.

Issues

1. Is the requestor due additional reimbursement of \$450.00 for code 99456-W5-WP(X6)?
2. Is the allowance for CPT code 99080-73 included in the allowance of another service rendered on the disputed date?

Findings

1. On August 17, 2018, the claimant attended a Designated Doctor evaluation to determine MMI/IR and Return to Work. The requestor billed the respondent \$1,400.00 for the MMI/IR evaluation with CPT code 99456-W5-WP(X6), \$500.00 for code 99456-W8-RE and \$15.00 for 99080-73. The respondent paid \$1,450.00. The issue in dispute is whether the requestor is due additional reimbursement of \$465.00.

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

- MMI: May 11, 2018
- Right Eye IR: 0%
- Liver IR: 0%
- Left Shoulder IR: 4%
- Left Hand IR: 0%
- Buttocks IR: 0%
- Left Knee IR: 0%
- Head IR: 29%

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 (X6) for the MMI/IR in accordance with 28 Texas Administrative Code §134.240 and §134.250(3) and (4).
 - 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 of upper and lower extremities; therefore, the total reimbursement is \$450.00 per 28 Texas Administrative Code §134.250 (4)(C)(ii)(I)(a) and (b).
 - Per 28 Texas Administrative Code §134.250 (4)(D)(v) the MAR for IR of 4 non-musculoskeletal areas, = \$600.00.
 - Total for IR is \$1,050.00.
 - The total due for the MMI/IR is \$1,400.00. The respondent paid \$950.00. The requestor is due the difference between MAR and paid of \$450.00.
2. The respondent denied reimbursement for code 99080-73 based upon reason code “97-The benefit for this service is included in the payment/allowance for another service/procedure that has already adjudicated.”

The following statutes address reports billed with MMI/IR, and RTW evaluations:

- 28 Texas Administrative Code §134.239, “When billing for a work status report that is not conducted as a part of the examinations outlined in §134.240 and §134.250 of this title, refer to §129.5 of this title.”
- 28 Texas Administrative Code §134.250(1)(D) states, “The total maximum allowable reimbursement (MAR) for an MMI/IR examination shall be equal to the MMI evaluation reimbursement plus the reimbursement for the body area(s) evaluated for the assignment of an IR. The MMI/IR examination shall include: (D) the preparation and submission of reports (including the narrative report, and responding to the need for further clarification, explanation, or reconsideration), calculation tables, figures, and worksheets.”
- 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.”

The division finds that the respondent’s denial is supported per 28 Texas Administrative Code §134.239, 134.250 and 134.235 because the reports are included with the return to work evaluation.

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 \$450.00.

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 \$450.00 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	2/5/2019 Date
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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.