



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

STEPHANIE JONES, DC

Respondent Name

XL SPECIALTY INSURANCE CO

MFDR Tracking Number

M4-19-2707-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

JANUARY 16, 2019

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Carrier is required to pay Designated Doctor Exams."

Amount in Dispute: \$1,400.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The Respondent did not submit a response to this request for medical fee dispute resolution.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
July 27, 2018	CPT Code 99456-W5-WP Designated Doctor Evaluation (DD)	\$650.00	\$650.00
	CPT Code 99456-W7-RE	\$500.00	\$500.00
	CPT Code 99456-W8-RE	\$250.00	\$250.00
TOTAL		\$1,400.00	\$1,400.00

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 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.210, effective July 7, 2016, provides the medical fee guideline for division specific services.
- 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. Neither party to the dispute submitted explanation of benefits for the disputed date of service.
7. The Division placed a copy of the Medical Fee Dispute Resolution request in the insurance carrier's Austin representative box, which was acknowledged received on January 23, 2019. Per 28 Texas Administrative Code §133.307(d)(1), "The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile within 14 calendar days after the date the respondent received the copy of the requestor's dispute. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information." The insurance carrier did not submit any response for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.

Issues

Is the requestor due \$1400.00 for Designated Doctor Evaluation?

Findings

1. 28 Texas Administrative Code §133.240(a) states, "An insurance carrier shall take final action after conducting bill review on a complete medical bill, or determine to audit the medical bill in accordance with §133.230 of this chapter (relating to Insurance Carrier Audit of a Medical Bill), not later than the 45th day after the date the insurance carrier received a complete medical bill."

Although the requestor provided evidence to support that it sent a complete medical bill to the respondent, no evidence was presented by the respondent to support that it issued an explanation of benefits to the within 45 days; nor did the respondent present any evidence to support that it responded to the request for reconsideration.

No defenses were presented to the provider before the filing of this medical fee dispute. Consequently, the services in dispute are eligible for payment.

2. On July 27, 2018, the claimant attended a Designated Doctor Examination to determine MMI/IR, disability and claimant's ability to return to work. The requestor billed the respondent \$1,875.00. The respondent issued payment of \$0.00. The requestor is seeking medical fee dispute resolution for \$1,400.00.
3. The requestor reported the following findings on the Designated Doctor Examination report:
 - MMI on 6/6/2018
 - Ankle 3% IR
 - Claimant's disability is not a direct result from work-related injury.
 - Claimant is able to return to work as of 6/6/2018
4. To determine the appropriate reimbursement the division refers to the following statutes:
 - 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.
 - (18) WP, whole procedure--This modifier shall be added to the CPT code when both the professional and technical components of a procedure are performed by a single health care provider.
 - (20) W5, designated doctor examination for impairment or attainment of MMI--This modifier shall be added to the appropriate examination code performed by a designated doctor when determining impairment caused by the compensable injury and in attainment of MMI.
 - (22) W7, designated doctor examination for disability--This modifier shall be added to the appropriate examination code performed by a designated doctor when determining whether the injured employee's disability is a direct result of the work-related 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";
 - (D) Whether the injured employee's disability is a direct result of the work-related injury shall be billed and reimbursed in accordance with §134.235 of this title, with the use of the additional modifier "W7";
 - (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
 - (F) Issues similar to those described in subparagraphs (A) - (E) of this paragraph shall be billed and reimbursed in accordance with §134.235 of this title, with the use of the additional modifier "W9.”
- 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(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)(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.”

5. The Division reviewed the submitted documentation and finds the following:

- The requestor billed 99456-W5-WP for the MMI/IR.
- 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 one body area lower extremities; therefore, the MAR is \$300.00 per 28 Texas Administrative Code §134.250 (4)(C)(ii)(II)(a).
- Total for IR is \$300.00.
- The total due for the MMI/IR is \$650.00.
- The requestor billed 99456-W7-RE for the disability examination.
- Per 28 Texas Administrative Code §134.235 the appropriate reimbursement is \$500.00.
- The requestor billed 99456-W8-RE for the return to work evaluation.
- Per 28 Texas Administrative Code §134.235 and §134.240(2)(A-C), the appropriate reimbursement is \$250.00.
- The total due for the Designated Doctor Evaluation is \$1,400.00. The respondent paid \$0.00. The requestor is due the difference between MAR and paid of \$1,400.00

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 \$1,400.00.

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 \$1,400.00 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 4/4/2019

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.