



# 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**

MEDICAL EVALUATORS OF TEXAS

**Respondent Name**

NORTH EAST INDEPENDENT SCHOOL DISTRICT

**MFDR Tracking Number**

M4-20-0122-01

**Carrier's Austin Representative**

Box Number 55

**MFDR Date Received**

September 16, 2019

**Response Submitted By**

No response received

#### REQUESTOR'S POSITION SUMMARY

"the carrier did admit the report and bill were on file... MET was told the bill 'would be sent for processing again,'... The carrier now completely denies bill receipt."

#### RESPONDENT'S POSITION SUMMARY

The insurance carrier did not submit a response for consideration in this review.

#### SUMMARY OF DISPUTE

Dates of Service	Disputed Services	Dispute Amount	Amount Due
December 22, 2018	Designated Doctor Examination: 99456-WP-W5	\$800.00	\$800.00

#### AUTHORITY

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC) in Title 28, Part 2 of the Texas Administrative Code.

#### Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §133.240 sets out requirements for medical bill processing by insurance carriers.
- 28 Texas Administrative Code §134.210 sets out guidelines for Texas workers' compensation specific services.
- 28 Texas Administrative Code §134.235 sets out fee guidelines for return to work evaluations.
- 28 Texas Administrative Code §134.240 sets out fee guidelines for designated doctor examinations.
- 28 Texas Administrative Code §134.250 sets out fee guidelines for maximum medical improvement evaluations.
- The insurance carrier did not take final action on the medical bill or the provider's request for reconsideration; the carrier further did not send any explanations of benefits to the health care provider and to date has not responded to the request for MFDR or provided any documentation to the division for consideration in this review. This decision is therefore based on the information available at the time of review.

#### Issues

- Did the insurance carrier respond to the request for medical fee dispute resolution (MFDR)?
- Did the insurance carrier pay or deny the medical bills within the time limits required by DWC rules?
- Is the requestor entitled to additional reimbursement?

## Findings

1. The Austin carrier representative for North East Independent School District is Christopher Ameal, Attorney at Law, who acknowledged receipt of a copy of the MFDR request on September 25, 2019.

28 Texas Administrative Code §133.307(d)(1) provides, if DWC does not receive a response within 14 calendar days of dispute notification, the dispute may be decided on the basis of the available information. To date, no response has been received. Consequently, this decision is based on the information available at the time of review.

2. The requestor presented documentation to support timely submission of the medical bill to the insurance carrier, as well as a timely request for reconsideration. However, the provider did not receive payment, any explanations of benefits or a response of any kind. The provider now requests medical fee dispute resolution (MFDR) from DWC.

Rule 28 TAC §133.307 (d) requires the carrier, upon receipt of the MFDR request, to send a response including a position statement, copies of explanations of benefits, and any relevant, missing information or records known to the respondent that have not already been provided by the requestor. As stated above, the insurance carrier has not responded and has failed to meet these requirements.

Rule 28 TAC §133.240(a) requires an insurance carrier to take final action after conducting bill review on a complete medical bill (or determine to audit the bill), no later than 45 days after the date the insurance carrier receives the bill. No information was presented to support the carrier met this requirement.

Based on the evidence submitted for review, the carrier failed to pay or deny the initial bill and failed also to respond to the provider's request for reconsideration within the time limits allowed by DWC rules. To date the carrier has not presented any defenses to MFDR. The division will therefore review the disputed services for payment consistent with DWC rules and fee guidelines.

3. This dispute regards payment for a division ordered designated doctor examination for the evaluation of maximum medical improvement (MMI) and assignment of impairment rating (IR). Designated doctor examinations are Texas workers' compensation specific services. The fee guidelines are set out in Rules 28 TAC §134.240 and §134.250.

Rules 28 TAC §134.240 (1)(A) and (B) require that designated doctors performing examinations for impairment caused by a compensable injury and attainment of maximum medical improvement shall bill and be reimbursed in accordance with Rule 28 TAC §134.250 using "W5" as the first modifier added to the billing code.

Rule 28 TAC §134.250 (4)(C)(iii) provides that examining doctors who perform both the MMI exam and IR testing of the musculoskeletal body area shall bill using modifier "WP" and are paid at 100 percent of the maximum allowable reimbursement (MAR).

Rule 28 TAC §134.250 (3)(C) requires examining doctors (other than the treating doctor) to bill MMI evaluations using code 99456. Reimbursement is \$350.00. This amount is recommended for the MMI portion of the service.

Rule 28 TAC §134.250 (4)(A) states, "The number of body areas rated shall be indicated in the units column..." the provider billed 2 units. The documentation supports the provider performed a full exam with range of motion for 2 musculoskeletal body areas: upper and lower extremities.

Per Rules 28 TAC §134.250 (4)(C)(ii)(II)(-a-) and (-b-), the MAR for IR evaluated by full exam with range of motion is "\$300 for the first musculoskeletal body area;" and "\$150 for each additional musculoskeletal body area." Reimbursement is therefore \$300.00 for the first area and \$150.00 for the second, for a MAR of \$450.00.

The provider billed code 99456-W5-WP with 2 units, indicating an MMI exam with IR testing of 2 areas by range of motion performed by the examining doctor, who is different from the employee's treating physician. The recommended reimbursement for the disputed services is \$350 for the MMI portion and \$450 for the IR portion of the exam, for a total recommended reimbursement of \$800.00.

## Conclusion

For the reasons above, the requestor has established payment is due. As a result, the amount ordered is \$800.00.

**ORDER**

In accordance with Texas Labor Code Section 413.031 and 413.019 (if applicable), based on the submitted information, DWC finds the requestor is entitled to additional reimbursement. DWC hereby ORDERS the respondent to remit to the requestor \$800.00, plus accrued interest per Rule §134.130, due within 30 days of receipt of this order.

Authorized Signature

\_\_\_\_\_  
Signature

Grayson Richardson  
Medical Fee Dispute Resolution Officer

December 20, 2019  
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 TAC §133.307. The appealing party must submit a *Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision* (form DWC045M). DWC must receive the request within twenty days of your receipt of this decision. You may fax, mail or personally deliver the request to either the field office handling the claim or to DWC at the contact information on the form. You must send a copy to all other parties in the dispute at the same time you file the request. Include a **copy** of this **Medical Fee Dispute Decision** along with any other information required by 28 TAC §141.1(d). Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.