



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

PACIFIC BILLING

Respondent Name

Safety National Casualty Corp.

MFDR Tracking Number

M4-20-0320-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

October 2, 2019

Response Submitted By

No response received

REQUESTOR'S POSITION SUMMARY

"AN ORIGINAL BILL AND A RECONSIDERATION WERE SUBMITTED, THE CURRENT RULES ALLOW REIMBURSEMENT."

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
April 23, 2019	Designated Doctor Examination	\$850.00	\$850.00

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 §124.2 sets out carrier reporting and notification requirements.
- 28 Texas Administrative Code §127.1 sets out guidelines for requesting designated doctor examinations.
- 28 Texas Administrative Code §127.10 sets out general procedures for designated doctor examinations.
- 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 take final action on the bill for the disputed services?
- Is the requestor entitled to reimbursement?

Findings

1. The Austin carrier representative for Safety National Casualty Corp. is Flahive, Odgen & Latson, Attorneys at Law, PC, who acknowledged receipt of a copy of the MFDR request on October 9, 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 on May 3, 2019 but did not receive payment, any explanations of benefits or a response of any kind from the carrier.

On July 1, 2019, the provider submitted a request for reconsideration of the bill to the insurance carrier, including a request for an explanation of benefits. The provider did not receive a response to that request either and has now requested medical fee dispute resolution (MFDR) from DWC.

28 Texas Administrative Code §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.

Although the insurance carrier's representative acknowledged receipt of the MFDR request, to date the carrier has not submitted a response for consideration in this review. 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. The insurance carrier has failed to meet these requirements.

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. 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 Texas workers' compensation specific services including a designated doctor examination requested by the insurance carrier for evaluation of maximum medical improvement (MMI) and ability of the employee to return to work.

Rule 28 TAC §134.240 (1)(B) requires that designated doctors performing MMI examinations 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 §134.240 (1)(E) requires evaluations for ability of the employee to return to work to be billed and reimbursed in accordance with Rule 28 TAC §134.235, using modifier "W8" added to the billing code.

Rule 28 TAC §134.250 (2)(A) requires an examining doctor, other than the treating doctor, who determines MMI has not been reached, shall bill and be reimbursed according to Rule 28 TAC §134.250 (3), using Modifier "NM."

Because maximum improvement was not found, the employee's impairment was not evaluated.

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.

The provider billed code 99456-W5-NM. The recommended amount is \$350.00 for the MMI portion of the service.

Additionally, the physician evaluated the ability of the employee to return to work using billing code 99456-W8-RE.

Rule 28 TAC §134.235 requires doctors to bill return to work evaluations using code 99456 with modifier "RE," specifying reimbursement for return to work evaluations shall be \$500, "In either instance of whether maximum medical improvement/ impairment rating (MMI/IR) is performed ..."

The provider billed code 99456-W8-RE. The recommended amount is \$500.00 for the return to work evaluation.

The total recommended reimbursement for all disputed services is \$850.00.

Conclusion

For the reasons above, the requestor has established payment is due. As a result, the amount ordered is \$850.00.

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 \$850.00, 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.