



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

HAYES, MARCUS PAUL

Respondent Name

GREAT AMERICAN ALLIANCE INSURANCE

MFDR Tracking Number

M4-20-2373-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

May 28, 2020

REQUESTOR'S POSITION SUMMARY

"As of September 1, 2011, Sections 408.0041 (f-2) and 408.0041 (h) of the Texas Labor Code require the workers' compensation insurance carrier to pay for treating doctor or referral doctor examinations to certify maximum medical improvement (MMI) and impairment rating (IR) when MMI and IR have first been certified by a designated doctor and the injured employee disagrees with the designated doctor's opinion."

Amount in Dispute: \$350.00

RESPONDENT'S POSITION SUMMARY

"Claimant was initially certified at MMI by treating doctor, Dixie McCrory, M.D. In that regard, Dr. McCrory examined claimant on January 3, 2019 and certified him at MMI as of January 3, 2019 ... Thereafter, on May 15, 2019, Claimant was examined by Hayes for MMI and IR. Dr. Hayes ... On May 20, 2019, Claimant was examined by designated doctor, Robert Ramirez, D.C. to address MMI and IR ... On March 4, 2020, Claimant was examined by designated doctor Dorea Neigert, D.C. to address MMI and IR ... Claimant was again seen by Hayes on April 1, 2020 for MMI and IR ... Based on the foregoing, Dr. McCrory's certification on January 3, 2019 was the first evaluation of MMI and IR. Thus, Section 408.0041(f-2) does not apply. Section 408.0041(f-2)(1) clearly states that the claimant is entitled to an evaluation if the 'designated doctor's opinion is the employee's first evaluation of maximum medical improvement and impairment rating.' Indeed, the designated doctor evaluation in this case was not the employee's first evaluation of MMI and IR."

Response Submitted by: The Silvera Firm

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: April 1, 2020, Examination to Determine Maximum Medical Improvement and Impairment Rating, \$350.00, \$0.00

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 (DWC).

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. Texas Labor Code §408.0041 sets out the guidelines for designated doctor examinations.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 29 – Procedure does not appear related to the injury and/or diagnosis. We will re-evaluate this charge upon receipt of clarifying information.
 - P2 – Not a work related injury/illness and thus not the liability of the workers’ compensation carrier.
 - Notes: “Denied: Not related to compensable injury”
 - 16 – Claim/service lacks information or has submission/billing error(s).
 - 270 – No allowance has been recommended for this procedure/service/supply. Please see special *note* below.

Issues

Is Marcus Hayes, D.C. entitled to reimbursement for the service in question?

Findings

Dr. Hayes is seeking reimbursement for an examination to determine maximum medical improvement (MMI). Review of available information finds that the initial evaluation of MMI was performed by the treating doctor, Dr. Dixie McCrory, on January 3, 2019. The injured employee was also evaluated by Designated Doctor Robert Ramirez on May 20, 2019, and Designated Doctor Dorea W. Neigert on March 4, 2020.

An insurance carrier is required to pay for an examination referred by the treating doctor to dispute a designated doctor’s findings if the designated doctor’s examination is the first evaluation of maximum medical improvement and impairment rating.¹

Because the designated doctor’s examination was not the first evaluation of maximum medical improvement and impairment rating, Dr. Hayes is not entitled to reimbursement for the examination in question. No reimbursement is recommended.

Conclusion

For the reasons stated above, the DWC finds that the requestor has not established that additional reimbursement is due. As a result, the amount ordered is \$0.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031, the DWC hereby determines the requestor is entitled to \$0.00 additional reimbursement for the services in dispute.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	Date
		July 24, 2020

¹ TLC §408.0041 (f-2)(1)

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §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 DWC within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the DWC 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. **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.