

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Francis Burch, M.D.

Respondent Name

Sompo America Insurance Co.

MFDR Tracking Number

M4-22-0100-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

September 20, 2021

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 28, 2021	Designated Doctor Examination (99456-W5-WP)	\$650.00	\$650.00
	Designated Doctor Examination (99456-MI)	\$100.00	\$100.00
	Designated Doctor Examination (99456-W6-RE)	\$500.00	\$500.00
Total		\$1,250.00	\$1,250.00

Requestor's Position

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

Amount in Dispute: \$1,250.00

Respondent's Position

The Austin carrier representative for Sompo America Insurance Co. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on September 28, 2021.

Per 28 Texas Administrative Code §133.307 (d)(1), if the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the

available information.

As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

Findings and Decision

Authority

This medical fee dispute is decided according to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Statutes and Rules

1. 28 Texas Administrative Code §133.20 sets out the procedures for submitting medical bills.
2. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 TAC §134.235 sets out the fee guidelines for examinations to determine extent of injury.
4. 28 TAC §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.

Denial Reasons

Neither party submitted an explanation of benefits with reasons for the denial of payment for the disputed services.

Issues

1. Did Sompco America Insurance Co. take final action on the bill for the disputed service before medical fee dispute resolution was requested?
2. Is Francis Burch, M.D. entitled to additional reimbursement?

Findings

1. Dr. Burch is seeking reimbursement for a designated doctor examination to determine maximum medical improvement and impairment rating.

Dr. Burch argued that no payment or explanation of benefits had been received for medical bills submitted for the examinations in question. The insurance carrier failed to respond to the request for medical fee dispute.

Per 28 TAC §133.240 (a), the insurance carrier is required to take final action by paying, reducing, or denying the service in question not later than 45 days after receiving the medical bill. This deadline is not extended by a request for additional information.

The greater weight of evidence presented to DWC supports that a complete bill for the services in question was received by the insurance carrier or its agent. No evidence was

provided to support that the insurance carrier took final action on the bill for the service in question.

2. Because the insurance carrier failed to provide any defense of non-payment, DWC finds that Dr. Burch is entitled to reimbursement.

The submitted documentation supports that Dr. Burch performed an evaluation of maximum medical improvement as ordered by DWC. 28 TAC §134.250 (3)(C) states that the maximum allowable reimbursement (MAR) for this examination is \$350.00.

Review of the submitted documentation finds that Dr. Burch performed impairment rating evaluations of the right hand with range of motion testing. The rule at 28 TAC §134.250 (4)(C) defines the fees for the calculation of an impairment rating for musculoskeletal body areas. The MAR for the evaluation of the first musculoskeletal body area performed with range of motion is \$300.00.

The submitted documentation indicates that Dr. Burch was ordered to address maximum medical improvement, impairment rating, and extent of injury. The narrative report and enclosed forms support that these evaluations were performed, and two additional impairment ratings were provided.

When multiple impairment ratings are required as a component of a designated doctor examination, 28 TAC §134.250 (4)(B) states that the designated doctor shall be reimbursed \$50.00 for each additional impairment rating calculation. Therefore, the correct MAR for this service is \$100.00.

The submitted documentation indicates that Dr. Burch performed an examination to determine the extent of the compensable injury. According to 28 TAC §134.235, the MAR for this examination is \$500.00.

The total allowable reimbursement for the examination in question is \$1,250.00. This amount is recommended.

Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requester has established that additional reimbursement of \$1,250.00 is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that Sompco America Insurance Co. must remit to Frances Burch, M.D. \$1,250.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

December 15, 2021

Date

Your Right to Appeal

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the instructions on the form. You can find the form at www.tdi.texas.gov/forms/form20numeric.html. DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, please call CompConnection at 1-800-252-7031, option 3 or email CompConnection@tdi.texas.gov.

The party seeking review of the MFDR decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** with any other required information listed in 28 TAC §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, opción 3 o correo electrónico CompConnection@tdi.texas.gov.