

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Trenton D. Weeks, D.C.

**Respondent Name**

XL Insurance America, Inc.

**MFDR Tracking Number**

M4-22-0331-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

November 18, 2021

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 2, 2020	Examination to Determine Maximum Medical Improvement and Impairment Rating (99456-WP)	\$350.00	\$350.00

### Requestor's Position

On 12/02/2020 I performed an evaluation to determine maximum medical improvement and impairment of the above named claimant. I performed this examination at the request of the injured employee and the treating doctor.

**Amount in Dispute:** \$350.00

### Respondent's Position

... the provider over a period of seven months, billed for three MMI exams, each time opining that the claimant had not reached MMI and each time opining that the claimant would reach MMI exactly three months later ... While §408.0041(f-2) is not directly on point, it is instructive concerning MMI evaluations. While a carrier is liable for MMI and impairment rating evaluations, there is a limit to the exams. The provider is not entitled to any reimbursement.

**Response Submitted by:** Flahive, Ogden & Latson

## 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 §130.10 sets out the procedures for examinations to determine maximum medical improvement and impairment rating.
2. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
3. 28 TAC §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.

### Denial Reasons

The insurance carrier [reduced or denied] the payment for the disputed services with the following claim adjustment codes:

- 5085 – Payment is denied as billed diagnosis is not allowed in this claim.
- 5264 – Payment is denied – service not authorized
- 197 – Payment denied/reduced for absence of precertification/authorization
- 96 – Non-covered charge(s)
- N569 – Not covered when performed for the reported diagnosis
- 1014 – The attached billing has been re-evaluated at the request of the provider. Based on the re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- W3 – No additional reimbursement allowed after review of appeal/reconsideration/request for second review.

### Issues

1. Is this dispute subject to dismissal based on extent of the compensable injury?
2. Is the insurance carrier's denial of payment based on authorization supported?
3. Is Trenton D. Weeks, D.C. entitled to reimbursement for the examination in question?

### Findings

1. Dr. Weeks is seeking reimbursement for an examination to determine maximum medical improvement. The insurance carrier denied the examination, in part, based on the extent of the compensable injury. 28 TAC §§133.305(b) and 133.307(c)(1)(B)(i) state that a dispute regarding extent of injury must be resolved prior to a request for medical fee dispute.

Per 28 TAC §133.307 (d)(2)(H), the respondent is required to attach a copy of any related Plain Language Notice (PLN) if the medical fee dispute involves extent of injury.

Review of the submitted documentation finds that Flahive, Ogden & Latson failed to attach a copy of a related PLN on behalf of XL Insurance America, Inc. to support a denial based on extent of the compensable injury.

This dispute is not subject to dismissal as the denial reason was not supported.

2. XL Insurance America, Inc. also denied the examination based on lack of authorization.

Per 28 TAC §130.1 (a)(1)(A)(i), "the treating doctor (or a doctor to whom the treating doctor has referred the injured employee for evaluation of MMI and/or permanent whole body impairment in the place of the treating doctor, in which case the treating doctor is not authorized)" may be authorized to "certify maximum medical improvement (MMI), determine whether there is permanent impairment, and assign an impairment rating if there is permanent impairment."

The greater weight of evidence supports that the examination in question was referred to Dr. Weeks by the injured employee's treating doctor. Therefore, this denial is not supported.

3. Because the insurance carrier failed to support its denial of payment, Dr. Weeks is entitled to reimbursement for the examination in question.

The submitted documentation supports that Dr. Weeks performed an evaluation of maximum medical improvement. 28 TAC §134.250 (3)(C) states that the maximum allowable reimbursement for this examination is \$350.00. 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 requestor has established that additional reimbursement of \$350.00 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 XL Insurance America, Inc. must remit to Trenton D. Weeks, D.C. \$350.00 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 20, 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](http://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](mailto: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](mailto:CompConnection@tdi.texas.gov).