



Amended Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

JOHN ANTHONY SKYLAR, MD

Respondent Name

SAFETY NATIONAL CASUALTY CORP.

MFDR Tracking Number

M4-22-0710-02

Carrier's Austin Representative

Box Number 19

DWC Date Received

December 14, 2021

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
July 29, 2021	99456-W5-NM	\$350.00	\$350.00
Total		\$350.00	\$350.00

Requestor's Position

"Please see attached approval from Texas Dept. of Insurance for additional time to complete report."

Amount in Dispute: \$350.00

Respondent's Position

The Austin carrier representative for Safety National Casualty Corp. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on December 21, 2021. Per 28 TAC §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.

Amended Findings and Decision

Authority

By Official Order Number 6695 dated February 26, 2021, the undersigned has been delegated authority by the Commissioner to **amend** fee dispute decisions.

This **amended** findings and decision supersedes all previous decisions rendered in this medical payment dispute involving the above requestor and respondent.

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Statutes and Rules

1. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §133.20 sets out the medical bill submission procedures for health care providers.
3. 28 TAC §102.4 sets out the rules for non-Commission communications.
4. TLC §408.027 sets out the rules for timely submission of claims by health care providers.
5. TLC §408.0272 provides for certain exceptions to untimely submission of a medical bill.
6. 28 TAC §134.250 sets the reimbursement guidelines for Maximum Medical Improvement Evaluations and Impairment Rating Examinations.
7. 28 TAC §134.240 sets out the requirements for billing designated doctor examinations.

Denial Reasons

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

- 29 – The time limit for filing has expired.
- 4271 – Per TX Labor Code Sec. 408.027, providers must submit bills to payors within 95 days of the date of service.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Is the Insurance Carrier's denial reason supported?
2. Is the requestor entitled to reimbursement for 99456-W5-NM?

Findings

1. On July 29, 2021, the requestor billed CPT code 99456-W5-NM. The insurance carrier denied the service in dispute due to timely filing.

28 TAC §133.20(b) requires that, except as provided in TLC §408.0272, "a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided."

No documentation was found to support that any of the exceptions described in TLC §408.0272 apply to the services in this dispute. For that reason, the requestor in this dispute was required to submit the medical bill not-later than 95 days after the date the disputed services were provided.

TLC §408.027(a) states, in pertinent part, that "Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment."

28 TAC §102.4(h) states that "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday."

Review of the EOBs and medical bills document that the medical bill was submitted on October 27, 2021, within 95 days from the date the services were provided. Therefore, pursuant to TLC §408.027(a), the DWC finds that the requestor submitted the services in dispute timely and are therefore eligible for MFDR review.

2. The requestor billed CPT Code 99456-W5-NM, rendered on July 29, 2021.

28 TAC §134.240(1)(A)(B) states, "Designated doctors shall perform examinations in accordance with Labor Code §§408.004, 408.0041, and 408.151 and division rules, and shall be billed and reimbursed as follows: (A) Impairment caused by the compensable injury shall be billed and reimbursed in accordance with §134.250 of this title, and the use of the additional modifier "W5" is the first modifier to be applied when performed by a designated doctor; (B) Attainment of maximum medical improvement shall be billed and reimbursed in accordance with §134.250 of this title, and the use of the additional modifier "W5" is the first modifier to be applied when performed by a designated doctor."

28 TAC §134.250(2)(A) states, "If the examining doctor, other than the treating doctor, determines MMI has not been reached, the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this section. Modifier "NM" shall be added."

28 TAC §134.250(3)(C) states, "The following applies for billing and reimbursement of an MMI evaluation. An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350."

The requestor is therefore entitled to reimbursement in the amount of \$350.00.

3. The DWC finds that the requestor is therefore entitled to \$350.00 for the service in dispute.

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.

The DWC finds the requestor has established that reimbursement of \$350.00 is due.

Order

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$350.00 plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	<u>March 30, 2022</u>
Signature	Medical Fee Dispute Resolution Officer	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 prefieres 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.