

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Trenton D. Weeks, D.C.

Respondent Name

Valley Forge Insurance Company

MFDR Tracking Number

M4-22-1020-01

Carrier's Austin Representative

Box Number 57

DWC Date Received

January 28, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
February 23, 2021	Examination to Determine Maximum Medical Improvement (99456-NM)	\$350.00	\$0.00

Requestor's Position

I performed this examination at the request of the injured employee and the treating doctor ... This examination was performed for the purpose of determining MMI and Impairment as it related to the work injury ... After careful review of documentation, it is concluded that this billed examination was properly preformed, document, and submitted.

Amount in Dispute: \$350.00

Respondent's Position

While there are extent of injury issues with this claim, the Carrier does not assert that this Medical Fee Dispute should be dismissed because of unresolved extent of injury issues. Rather, the Carrier asserts that the services should be denied because they are not performed in accord with the Texas Labor Code and Division fee schedule allowance ... there has been a CCH Determination that the claimant has already reached MMI.

Response Submitted by: Law Office of Brian J. Judis

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 §133.307 sets out the procedures for resolving medical fee disputes.
2. Texas Labor Code §408.0041 sets out the requirements for designated doctor examinations.

Denial Reasons

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

- 309 – The charge for this procedure exceeds the fee schedule allowance.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.
- 5101 – ICD-9/ICD-10 billed is denied and not accepted for the claim see EOR for the specific ICD
- 5220 – The carrier has denied the claim.

Issues

1. Is this dispute subject to dismissal based on extent of injury issues?
2. Is Trenton D. Weeks, D.C. entitled to additional reimbursement?

Findings

1. Dr. Weeks is seeking reimbursement for an examination to determine maximum medical improvement. The insurance carrier denied payment based, in part, on extent of injury issues.

In its position statement, ESIS argued on behalf of Valley Forge Insurance Company, "While there are extent of injury issues with this claim, the Carrier does not assert that this Medical Fee Dispute should be dismissed because of unresolved extent of injury issues."

Therefore, DWC will not review this dispute for extent of injury issues. This dispute is not subject to dismissal for this reason.

2. The insurance carrier also denied payment based on fee guidelines.

Dr. Weeks argued that he "performed this examination at the request of the injured employee and the treating doctor."

ESIS stated that the "Carrier asserts that the services should be denied because they are not performed in accord with the Texas Labor Code and Division fee schedule allowance ... there

has been a CCH Determination that the claimant has already reached MMI.”

Texas Labor Code §408.0041 provides, in relevant part, that:

(f-2) An employee required to be examined by a designated doctor may request a medical examination to determine maximum medical improvement and the employee's impairment rating from the treating doctor or from another doctor to whom the employee is referred by the treating doctor if:

(1) the designated doctor's opinion is the employee's first evaluation of maximum medical improvement and impairment rating; and

(2) the employee is not satisfied with the designated doctor's opinion.

(f-3) The commissioner shall provide the insurance carrier and the employee with reasonable time to obtain and present the opinion of a doctor selected under Subsection (f) or (f-2) before the commissioner makes a decision on the merits of the issue.

Further, Texas Labor Code §408.0041(h) requires the insurance carrier to reimburse the provider if an examination was performed in accordance with Subsection (f-2).

Submitted documentation supports that a Decision and Order dated April 24, 2019 following a contested case hearing found that the injured employee reached maximum medical improvement on April 4, 2019. This date is prior to the date of service in question.

Texas Labor Code §408.0041(f-2) does not provide for the injured employee to request examinations after a decision has been rendered by an administrative law judge. The evidence does not support that the examination in question met the requirements of Texas Labor Code §408.0041. No reimbursement 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 not established that additional reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is not entitled to additional reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

February 18, 2022

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.