

## 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**

M4-22-1023-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

January 28, 2022

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 24, 2021	Examination to Determine Maximum Medical Improvement and Impairment Rating	\$350.00	\$350.00

### Requestor's Position

After careful review of documentation it is concluded that this billed examination was properly performed, documented, and submitted. This examination and report in no way constitutes treatment and was referred by the treating doctor as indicated in the DWC-69. This report and bill was performed according to TDWC rules and should be paid in full.

**Amount in Dispute:** \$350.00

### Respondent's Position

The Austin carrier representative for XL Insurance America, Inc. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on February 1, 2022.

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 §130.1 sets out guidelines 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.

### Denial Reasons

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

- 5085 – Payment is denied as the billed diagnosis is not allowed in this claim.
- 5264 – Payment is denied-service not authorized.
- 197 – Payment is denied/reduced for absence of precertification/authorization.
- 96 – Non-covered charge(s).
- N569 – No covered when performed for the reported diagnosis.
- 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
- 5628 – The date of service is not related to the above referenced claim. Please submit the bill to the patient or patients health care plan for payment.
- 109 – Claim not covered by this payer/contractor. You must send the claim to the correct payer/contractor.
- 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 liability?
2. Is XL Insurance America, Inc.'s denial based on authorization supported?

3. 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 performed on March 24, 2021.

The insurance carrier denied the service, in part, based on liability. 28 TAC §§133.305 (b) and 133.307 (c)(1)(B)(i) state that a dispute regarding liability 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) to its response if the medical fee dispute involves liability.

DWC found no documentation to support a denial based on liability for the injury related to this dispute. Therefore, this dispute is not subject to dismissal as the denial reason was not supported.

2. XL Insurance America, Inc. also denied the service in question based on authorization.

According to 28 TAC §130.1 (a)(1)(A)(i), 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 is authorized to perform such examinations.

The greater weight of evidence submitted to DWC supports that Dr. Stephen E. Gist, the injured employee's treating doctor, referred the injured employee to Dr. Weeks for the examination in question.

DWC found no evidence to support a denial of payment for the disputed examination based on authorization.

3. Because XL Insurance America, Inc. failed to support its denials of payment for the service in question, Dr. Weeks is entitled to reimbursement.

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 requester 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

\_\_\_\_\_  
April 20, 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](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).