

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Charles Xeller, M.D.

Respondent Name

Mitsui Sumitomo Insurance Co. of America

MFDR Tracking Number

M4-22-1069-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

February 4, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
September 16, 2021	Designated Doctor Examination 99456-W5-NM	\$350.00	\$350.00
	Designated Doctor Examination 99456-W5-MI	\$50.00	\$0.00
	Designated Doctor Examination 99456-W5-SP	\$50.00	\$0.00
	Designated Doctor Examination 99456-W6-RE	\$500.00	\$500.00
	Designated Doctor Examination 99456-W8-RE	\$250.00	\$250.00
Total		\$1,200.00	\$1,100.00

Requestor's Position

NO RESPONSE FROM CARRIER

Amount in Dispute: \$1,200.00

Respondent's Position

The Austin carrier representative for Mitsui Sumitomo Insurance Co. of America is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on February 8, 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 §133.240 sets out the procedures for payment or denial of 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 the compensable injury and ability to return to work.
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 Mitsui Sumitomo Insurance Co. of America take final action on the bill for the disputed service before medical fee dispute resolution was requested?
2. Is Charles Xeller, M.D. entitled to reimbursement for the examination in question?

Findings

1. Dr. Xeller is seeking reimbursement for a designated doctor examination performed on September 16, 2021.

Dr. Xeller argued that neither payment nor an explanation of denial for medical bills submitted for the examination in question was received.

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 evidence of a defence for non-payment of the services in question, Dr. Xeller is entitled to reimbursement.

The submitted documentation supports that Dr. Xeller 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.

Documentation does not support that the designated doctor provided additional impairment ratings. Therefore, a charge for additional impairment calculations was not supported. DWC does not recommend additional reimbursement for this charge.

28 TAC §134.250 (4)(D)(iii) limits billing for incorporating a specialist report into the determination of impairment rating to non-musculoskeletal body areas. Dr. Xeller provided no evidence to support that a specialist's report was used in the final determination of an impairment rating of a non-musculoskeletal body area.

The submitted documentation indicates that Dr. Xeller performed examinations to determine the extent of the compensable injury and ability to return to work. According to 28 TAC §134.235, the MAR for such examinations is \$500.00. Rules for multiple examinations of this type are found at 28 TAC §134.240 (2).

Not including maximum medical improvement and impairment rating, when multiple examinations of this type are required, the first examination is reimbursed at 100% of MAR. The second examination is reimbursed at 50%. Additional examinations are reimbursed at 25%.

For this dispute, the MAR for the examination to determine the extent of the compensable injury is \$500.00. The examination to determine the ability to return to work is \$250.00.

The total allowable reimbursement for the services in question is \$1,100.00. 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 \$1,100.00 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 Mitsui Sumitomo Insurance Co. of America must remit to Charles Xeller, M.D. \$1,100.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

_____	_____	May 12, 2022
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 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.