

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Kelley Samuel, D.C.

**Respondent Name**

Zurich American Insurance Co.

**MFDR Tracking Number**

M4-22-1790-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

April 20, 2022

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
February 21, 2022	Designated Doctor Examination 99456-W5-WP	\$500.00	\$500.00
	Designated Doctor Examination 99456-W8-RE	\$500.00	\$500.00
Total		\$1,000.00	\$1,000.00

### Requestor's Position

Per the information provide on the DWC032, the original bill was faxed to 866-548-2637 on 2/25/2022 ... the resubmitted bill was faxed to 859-264-4367 on 4/8/2022.

**Amount in Dispute:** \$1,000.00

### Respondent's Position

The Austin carrier representative for Zurich American Insurance Co. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on April 26, 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 §133.210 sets out the procedures for medical documentation.
2. 28 TAC §133.240 sets out the procedures for payment or denial of a medical bill.
3. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
4. 28 TAC §134.235 sets out the fee guidelines for examinations to determine the ability to return to work.
5. 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 Zurich American Insurance Co. take final action on the bill for the service in question prior to the request for medical fee dispute resolution (MFDR)?
2. Is Kelley Samuel, D.C. entitled to additional reimbursement?

### Findings

1. Dr. Samuel is seeking reimbursement for a designated doctor examination to determine maximum medical improvement, impairment rating, and ability to return to work.

Dr. Samuel argued that it had not received payment or an explanation of denial for medical bills submitted for the examination in question.

It is the insurance carrier's obligation to furnish its agents with any documentation needed to resolve a medical bill and DWC considers any medical billing information in the possession of one entity to be simultaneously possessed by the other according to 28 TAC §133.210(e).

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 Zurich American Insurance Co. failed to raise any defense of non-payment of the services in question, Dr. Samuel is entitled to reimbursement.

The submitted documentation supports that Dr. Samuel 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.

Review of the submitted documentation finds that Dr. Samuel performed impairment rating evaluations of the spine using the DRE method. The rule at 28 TAC §134.250(4)(C) defines the fees for the calculation of an impairment rating for musculoskeletal body areas. The MAR for the evaluation of a musculoskeletal body area determined using the DRE method is \$150.00.

The submitted documentation indicates that Dr. Samuel performed an examination to determine the ability of the injured employee to return to work. According to 28 TAC §134.235, the MAR for this examination is \$500.00.

The total allowable for the examination in question is \$1,000.00. 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 \$1,000.00 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 Zurich American Insurance Co. must remit to Kelley Samuel, D.C. \$1,000.00 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

September 1, 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).