



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Kristen Kocusek, M.D.

Respondent Name

AIU Insurance Co.

MFDR Tracking Number

M4-23-0069-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

September 7, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 7, 2021	Examination to Determine Maximum Medical Improvement 99455-V4	\$221.76	\$221.76

Requestor's Position

Dr. Kocurek is the treating doctor who determine patient's MMI has been reached and there is no permanent impairment because the injury was sufficiently minor.

Amount in Dispute: \$221.76

Respondent's Position

The Austin carrier representative for AIU Insurance Co. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on September 13, 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 the procedures for certification of maximum medical improvement.
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:

- B7 – This provider was not certified/eligible to be paid for this procedure/service on this date of service.
- 18 – Exact duplicate claim/service.

Issues

1. Is AIU Insurance Co.'s denial based on certification or eligibility supported?
2. Is Kristen Kocusek, M.D. entitled to additional reimbursement?

Findings

1. Dr. Kocusek is seeking reimbursement for an examination to determine maximum medical improvement. AIU Insurance Co. denied payment stating, "This provider was not certified/eligible to be paid for this procedure/service on this date of service."

Per 28 TAC §130.1 (a)(1)(A)(i), the treating doctor is authorized to certify maximum medical improvement and determine if there is permanent impairment. The greater weight of evidence submitted supports that Dr. Kocusek was acting as the treating doctor for the service in question.

Per 28 TAC §130.1 (a)(1)(B)(ii), a doctor that is not certified to assign impairment ratings may certify maximum medical improvement if it is deemed that the injured employee has no impairment. The documentation submitted to DWC indicates that Dr. Kocusek found that the injured employee was at maximum medical improvement with no impairment. Therefore, certification is not relevant for the service considered in this review.

DWC finds that the insurance carrier's denial of payment based on certification or eligibility is not supported.

2. Because the insurance carrier failed to support its denial of payment, DWC finds that Dr. Kocusek is entitled to reimbursement.

According to 28 TAC §§134.250 (3)(A), Dr. Kocusek was required to bill an examination to determine maximum medical improvement with CPT code 99455. The treating doctor was required to include modifier "V1," "V2," "V3," "V4," or "V5" to correspond with the last digit of the applicable office visit.

28 TAC §134.250 (3)(A)(i) states that reimbursement is the applicable established patient office visit level associated with the examination. Dr. Kocusek billed the examination in question with modifier V4.

The applicable office visit level that corresponds with this modifier is 99214. The maximum allowable reimbursement (MAR) for this code is based on Medicare payment policies as described in 28 TAC §134.203. The MAR for the examination in question is \$232.19. Dr. Kocusek is seeking \$221.76. 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 \$221.76 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 AIU Insurance Co. must remit to Kristen Kocusek, M.D. \$221.76 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

December 15, 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.