

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Lizette Gonzales, M.D.

Respondent Name

AIU Insurance Co.

MFDR Tracking Number

M4-23-0071-01

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 14, 2021	Examination to Determine Maximum Medical Improvement 99455-V3	\$156.11	\$156.11
December 6, 2021	New Patient Office Examination 99204	\$286.43	\$286.43
	99080	\$15.00	\$15.00
Total		\$457.54	\$457.54

Requestor's Position

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

Amount in Dispute: \$475.54

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 §129.5 sets out the procedures for filing work status reports.
2. 28 TAC §130.1 sets out the procedures for certification of maximum medical improvement.
3. 28 TAC §133.2 defines certain terms used in workers' compensation related to medical billing and processing.
4. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
5. 28 TAC §134.203 sets out the fee guidelines for professional medical services.
6. 28 TAC §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement.
7. 28 TAC §180.1 defines certain terms used in workers' compensation rules related to enforcement.
8. 28 TAC §180.22 defines the roles of health care providers.
9. Texas Labor Code §401.011 defines certain terms used in workers' compensation.

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 Lizette Gonzales, M.D. entitled to reimbursement for the services in question?

Findings

1. Dr. Gonzales is seeking reimbursement for a new patient office examination, a work status form, and 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."

28 TAC §180.22 (c) states that "the treating doctor is the doctor primarily responsible for the efficient management of health care and for coordinating the health care for an injured employee's compensable injury." TLC §401.011 (17) defines "doctor" as "a doctor of medicine, osteopathic medicine, optometry, dentistry, podiatry, or chiropractic who is licensed and authorized to practice."

Review of available information finds that Dr. Gonzales was licensed and authorized as a medical doctor in the state of Texas on the dates of service.

Per 28 TAC §129.5 (c), the treating doctor is authorized to file a work status form.

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. Gonzales 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. Gonzales 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 AIU Insurance Co. failed to support its denial of payment for the services in question, Dr. Gonzales is entitled to reimbursement.

Fee guidelines for new patient office examinations are found in 28 TAC §134.203 for professional medical services. Per subsection (b) of this chapter, coding, billing, reporting, and reimbursement of professional medical services is based on Medicare payment policies, including its coding; billing; correct coding initiatives edits; modifiers; ... and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.

Subsection (c) applies the DWC conversion factor determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors. The conversion factor for 2021 was \$61.17.

The maximum allowable reimbursement (MAR) for procedure code 99204 is \$298.73. Dr. Gonzales is seeking \$286.43. This amount is recommended.

The fee for procedure code 99080 with modifier "73," representing the work status form, is \$15.00 as noted in 28 TAC §129.5 (j).

According to 28 TAC §§134.250 (3)(A), the treating doctor is required to bill an examination to determine maximum medical improvement with CPT code 99455. The treating doctor is 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. Gonzales billed the examination in question with modifier V3.

The applicable office visit level that corresponds with this modifier is 99213. 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 MMI portion of the examination in question is \$163.79. Dr. Gonzales is seeking \$156.11. This amount is recommended.

The total allowable reimbursement for the services in question is \$457.54. 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 \$457.54 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 Lizette Gonzales, M.D. \$457.54 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 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. 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.