

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Noel Mairena, D.C.

**Respondent Name**

Liberty Insurance Corp.

**MFDR Tracking Number**

M4-23-0209-01

**Carrier's Austin Representative**

Box Number 01

**DWC Date Received**

September 23, 2022

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 3, 2022	Designated Doctor Examination 99456-W5-WP	\$650.00	\$650.00
	Designated Doctor Examination 99456-W8-RE	\$500.00	\$500.00
<b>Total</b>		<b>\$1,150.00</b>	<b>\$1,150.00</b>

### Requestor's Position

AN ORIGINAL BILL AND A RECONSIDERATION WERE SUBMITTED. THE CURRENT RULES ALLOW REIMBURSEMENT.

**Amount in Dispute:** \$1,150.00

### Respondent's Position

Our bill audit company stands on their original review ... No additional monies due.

**Response Submitted by:** Gallagher Bassett

## 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 §134.240 sets out the procedures for payment or denial of a medical bill.
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 the 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 Liberty Insurance Corp. take final action on the bill for the disputed service before medical fee dispute resolution was requested?
2. Is Noel Mairena, D.C. entitled to additional reimbursement?

### Findings

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

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

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 on or about May 13, 2022. No evidence was provided to support that the insurance carrier took final action on the bill for the service in question prior to this request for medical fee dispute resolution.

2. Because the insurance carrier failed to support a denial of payment for the services in question, Dr. Mairena is entitled to reimbursement.

The submitted documentation supports that Dr. Mairena 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. Mairena performed impairment rating evaluations of lumbar spine with range of motion testing. The rule at 28 TAC §134.250 (4)(C)(ii) defines the fees for the calculation of an impairment rating for musculoskeletal body areas. The MAR for the evaluation of the first musculoskeletal body area performed with range of motion is \$300.00.

The submitted documentation indicates that Dr. Mairena 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 reimbursement is \$1,150.00. 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 \$1,150.00 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 Liberty Insurance Corp. must remit to Noel Mairena, D.C. \$1,150.00 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

December 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).