TDI Division of Workers' Compensation
PO Box 12050 | Austin, TX 78711 | 800-252-7031 | tdi.texas.gov/wc

# Medical Fee Dispute Resolution Findings and Decision

## General Information

**Requestor Name**
Clayton Clark, D.C.

**Respondent Name**
Accident Fund Insurance Co. of America

**MFDR Tracking Number**
M4-23-0598-01

**Carrier's Austin Representative**
Box Number 06

**DWC Date Received**
November 7, 2022

## Summary of Findings

| Dates of Service | Disputed Services | Amount in Dispute | Amount Due |
|---|---|---|---|
| June 24, 2022 | Designated Doctor Examination 99456-W5-26 | $300.00 | $110.00 |
| | Designated Doctor Examination 99456-W5-TC | $520.00 | $0.00 |
| | **Total** | $820.00 | $110.00 |

## Requestor's Position

When a Designated Doctor performs the MMI examination and assigns the IR but does not perform the range of motion, strength, or sensory testing of the musculoskeletal body area(s), that doctor should bill using the appropriate MMI CPT code with the component modifier – 26. In this instance, reimbursement to the to the examing doctor is 80% of the MAR. The health care provider other than the examin doctor performs the range of motion, strength, or sensory testing of the musculoskeletal body(s), the health care provider will bill with the component modifier – TC. In this instance, reimbursement to the health care provider is 20% of the MAR. The bills from the two parties must be coordinated and billed appropriately and at the same time for correct reimbursement … We seek full reimbursement for the outstanding balance of $170.00 along with interest accrued according to Rule 134.803 Calculating Interest for Late Payments on Medical Bills.

**Amount in Dispute:** $820.00

## Respondent's Position

After review of this dispute by its auditor, it appears the payment of $480.00 that was issued was accurate based on the documentation submitted with the original bill. The provider billed with incorrect codes based on the service that was documented in the records. If the provider has additional documentation to show they actually performed the services billed, Accident Fund has indicated it would reconsider its decision.

**Response Submitted by:** Stone Loughlin Swanson

## 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 §133.307 sets out the procedures for resolving medical fee disputes.

2. 28 TAC §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.

Denial Reasons

The insurance carrier reduced the payment for the disputed services with the following claim adjustment codes:

- 01(P12) – The charge for the procedure exceeds the amount indicated in the fee schedule.
- TX P12 – Workers' compensation jurisdictional fee schedule adjustment.
- 05(97) – The value of the service or procedure is included in the value of another procedure performed on this date.
- 14(B14) – The charge is either a partial or complete duplicate to another charge for the same service on the same date by the same provider or a different provider.
- @G(W3) – No additional reimbursement allowed after review of appeal/reconsideration.
- 1115 – RECON: We find the previous review to be accurate and are unable to recommend any additional allowance
- TX 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
- TX B14 – Only one visit or consultation per physician per day is covered.
- TX W3 – The Benefit for this Service is included in the payment/allowance for another service/procedure that has been performed on the same day.
- 60(B13) – The provider has billed for the exact services on a previous bill.

- OF(P12) – The reported modifier is not valid for the procedure code or service.
- ZR(P12) – The provider or a differenct provider has billed for the exact service on a previous bill where no allowance was originally recommended.
- TX B13 – Previously paid. Payment for this claim/service may have been provided in a previous payment.

Issues

1. Is Accident Fund Insurance Co. of America's denial based on invalid modifier supported?

2. Is Clayton Clark, D.C. entitled to additional reimbursement?

Findings

1. Dr. Clark is seeking additional reimbursement for a designated doctor examination to determine maximum medical improvement and impairment rating.

   The insurance carrier reduced the payment, in part, stating, "the reported modifier is not valid for the procedure code or service." In its position statement, the insurance carrier also stated that "the provider billed with incorrect codes based on the service that was documented in the records."

   Per 28 TAC §134.250 (4)(C)(iv), which deals with the impairment rating, when the examing doctor "does not perform the range of motion, sensory, or strength testing of the musculoskeletal body area(s), then the examining doctor shall bill using the appropriate MMI CPT code with CPT modifier '26.' Reimbursement shall be 80 percent of the total MAR."

   Per 28 TAC §134.250 (4)(C)(v), the health care provider that performed the "range of motion, sensory, or strength testing of the musculoskeletal body area(s) shall bill using the appropriate MMI CPT code with modifier 'TC' … Reimbursement shall be 20 percent of the total MAR."

   The billing and position statement from Dr. Clark indicate that range of motion, strength, or sensory testing were performed by a another health care provider and not Dr. Clark, the examining doctor. Therefore, it is not appropriate for Dr. Clark to bill for the technical component of the impairment rating, procedure code 99456-W5-TC, under his credentials.

   The division finds that the insurance carrier's reduction based on invalid modifier is supported.

2. The division calculates total allowable reimbursement for the examination in question, billed with procedure code 99456-W5-26, as follows:

   The submitted documentation supports that Dr. Clark performed an evaluation of maximum medical improvement as ordered by the division. 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. Clark performed impairment rating evaluations of right foot 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. Reimbursement at 80 percent of this amount is $240.00.

The total allowable reimbursement for the examination in question is $590.00. The insurance carrier paid $480.00. An additional reimbursement of $110.00 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 $110.00 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 Accident Fund Insurance Co. of America must remit to Clayton Clark, D.C. $110.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

**Authorized Signature**

| | | |
|---|---|---|
| | | March 9, 2023 |
| 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 electronico CompConnection@tdi.texas.gov.