



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Stephanie Janiak, D.C.

**Respondent Name**

Texas Mutual Insurance Co.

**MFDR Tracking Number**

M4-23-0756-01

**Carrier's Austin Representative**

Box Number 54

**DWC Date Received**

November 28, 2022

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 21, 2022	Designated Doctor Examination 99456-W5-WP	\$650.00	\$350.00
	99456-W5-MI	\$50.00	\$0.00
<b>Total</b>		<b>\$700.00</b>	<b>\$350.00</b>

### Requestor's Position

THIS EXAM WAS PREVIOUSLY BILLED WITHIN 7 DAYS OF THE EXAM. PAYMENT HAS BEEN DENIED.

**Amount in Dispute:** \$700.00

### Respondent's Position

Dr. Stephanie Janiak has submitted documentation and DWC-69's with two different MMI dates. On the included whole person impairment rating page of the documentation submitted, the first paragraph states that MMI would be reached on or about 11/1/22 while the first paragraph under "Summary" states MMI was reached on 3/19/21 with a whole person impairment rating of 1%.

**Response Submitted by:** Texas Mutual Insurance Company

## 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 §127.10 sets out the general procedures for designated doctor examinations.
2. 28 TAC §127.220 sets out the procedures for designated doctor reports.
3. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
4. 28 TAC §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.
5. Texas Labor Code §408.0041 provides the regulations for designated doctor examinations.

### Denial Reasons

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

- A26 – For further review of reimbursement, clarify rendering provider and date of exam between the exam report &/or DWC69.
- CAC-P12 – Workers' compensation jurisdictional fee schedule adjustment.
- 892 – Denied in accordance with DWC rules and/or medical fee guideline including current CPT code descriptions/instructions.
- 892 – "MMI date on DWC-69/documentation do not match."

### Issues

1. Is Stephanie Janiak, D.C. entitled to additional reimbursement?

### Findings

1. Dr. Janiak is seeking reimbursement for a designated doctor examination to determine maximum medical improvement (MMI) and impairment rating (IR). The examination was performed at the directive of a presiding officer with DWC.

The Presiding Officer's Directive to Order Designated Doctor Exam gave instructions to

provide a certification that addresses the accepted compensable injury of unspecified injury of the left wrist, hand and fingers, and left hand contusion plus the left shoulder high-grade partial thickness tear of the supraspinatus with a full thickness tear of the mid fibers, left shoulder high-grade bursal surface tear of the infraspinatus anterior insertional

fibers, and left shoulder low-grade interstitial tear of the superior insertional fibers of the subscapularis were all part of the compensable injury.

Based on the documentation provided, Dr. Janiak provided two certifications, one that addressed only the accepted conditions with an MMI date of March 19, 2021, with 1% impairment and one that addressed the conditions requested on the presiding officer's directive with an expected date of MMI of November 1, 2022. Available documentation indicates that the certification addressing only the accepted conditions had been provided on a previous examination.

Per TLC §408.0041 (h) the insurance carrier is only liable for the designated doctor examination as ordered.

28 TAC §127.10 (d) states, in part,

If a designated doctor is simultaneously requested to address MMI or impairment rating and the extent of the compensable injury in a single examination, the designated doctor shall provide multiple certifications of MMI and impairment ratings that take into account each reasonable outcome for the extent of the injury.

Per 28 TAC §127.220 (a), the designated doctor is only to answer the ordered questions.

Because the presiding officer did not request a new certification that included only the accepted conditions and was not simultaneously requested to address MMI or IR and the extent of the compensable injury, Dr. Janiak is not entitled to reimbursement for multiple impairment ratings.

DWC finds that Dr. Janiak is entitled to reimbursement only for the findings related to the conditions requested on the presiding officer's directive. The doctor determined that the injured employee was not at MMI and therefore, no impairment rating was provided.

28 TAC §134.250 (3)(C) states that the maximum allowable reimbursement for this examination is \$350.00. 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 requester has established that additional reimbursement of \$350.00 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 Texas Mutual Insurance Co. must remit to Stephanie Janiak, D.C. \$350.00 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

February 27, 2023

\_\_\_\_\_  
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).