TDI Division of Workers' Compensation
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Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Daniel C. Valdez, M.D.

Respondent Name
Sentry Casualty Co.

MFDR Tracking Number
M4-23-0785-01

Carrier's Austin Representative
Box Number 19

DWC Date Received
December 4, 2022

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
August 15, 2022	Designated Doctor Examination 99456-WP-W5; 99456-W6; 99456-W8; 99456-MI	$1,000.00	$0.00

Requestor's Position

A Designated Doctor Evaluation was requested to address maximum medical improvement/impairment rating, extent of injury, and ability to return to work. Sentry has made partial payment upon appeal.

Amount in Dispute: $1,000.00

Respondent's Position

We received the attached dispute from the provider regarding the denial of 99456-W6 and 99456-W8. Both charges were denied for requiring an additional modifier of -RE per TX admin rule 134.204(i)&(k) … We have not received a corrected bill, hence the denial is maintained.

Response Submitted by: Sentry Insurance

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 §134.235 sets out the fee guidelines for examinations to determine the extent of a compensable injury and ability return to work.

3. 28 TAC §134.240 sets out the fee guidelines for designated doctor examinations.

4. 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:

- XAP – Submission/billing error(s).
- 16 – Claim/service lacks information or has submission/billing error(s).
- M23 – Missing invoice.
- M49 – Missing/incomplete/invalid value code(s) or amount(s).
- N26 – Missing itemized bill/statement.
- N55 – Procedures for billing with group/referring/performing providers were not followed.
- Comments: Modifiers W6, W7, W8, W9
- Comments: Always billed with modifer RE
- 306 – To reprice this code requires the appropriate modifier. Please attach the appropriate modifier and resubmit.
- 4 – The procedure code is inconsistent with the modifier used or a required modifier is missing.
- Comments: Reconsideration, previously paid $700.00
- Comments: No additional payment will be made at this time. Denial is upheld per Rule 134.204(i)&(k); see below. Please submit a reconsideration with a corrected bill.
- Comments: Per TX admin code Rule 134.204(i)(1)(C), "Extent of the employee's compensable injury shall be billed and reimbursed in accordance with SUBSECTION (k) of this section, with the use of the additional modifier "W6."
- Comments: Per TX admin code Rule 134.204(i)(1)(E), "Ability of the employee to return to work shall be billed and reimbursed in accordance with SUBSECTION (k) of this section, with the use of the additional modifier "W8."

- Comments: Per TX admin code Rule 134.204(k), "The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier "RE."
- Comments: CPT 99456-WP-W6 & 99456-WP-W8: Per the TX admin code Rule 134.210(e)(7), modifier RE should be added to CPT 99456 when a return to work (RTW) or evaluation of medical care (EMC) exam is performed. Please review the TX admin code and resubmit a corrected bill.

Issues

1. What are the rules applicable to this dispute?

2. Is Daniel C. Valdez, M.D. entitled to additional reimbursement?

Findings

1. Dr. Valdez is seeking additional reimbursement for a designated doctor examination performed on August 15, 2022, addressing maximum medical improvement (MMI), impairment rating (IR), extent of injury, and return to work.

   The rule addressing billing and reimbursement of examinations to determine maximum medical improvement and impairment rating is 28 TAC §134.250, effective July 7, 2016.

   The rule addressing examinations to determine the extent of a compensable injury and the ability to return to work is 28 TAC §134.235, effective July 7, 2016.

   28 TAC §134.240, effective July 7, 2016, gives additional billing and reimbursement requirements specific to designated doctors.

2. According to 28 TAC §§134.250 (3)(C) and 134.240 (1)(B), a designated doctor is required to bill an examination to determine MMI with CPT code 99456 and modifier "W5." The submitted documentation supports that Dr. Valdez 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.

   When a designated doctor calculates an IR, 28 TAC §§134.250 (4)(A) and 134.240 (1)(A) require the doctor to bill with CPT code 99456 and modifier "W5." When the designated doctor also performs the testing for IR of musculoskeletal body areas, 28 TAC §134.250 (4)(C)(iii) requires the examining doctor to add modifier "WP." Review of the submitted documentation finds that Dr. Valdez performed an IR evaluation of the 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. Valdez was ordered to address MMI, IR, and extent of injury. The narrative report and enclosed forms support that these evaluations were performed, and two additional impairment ratings were provided. When multiple impairment

ratings are required as a component of a designated doctor examination, 28 TAC §134.250 (4)(B) states that the designated doctor shall be reimbursed $50.00 for each additional impairment rating calculation. Therefore, the correct MAR for this service is $100.00. However, documentation indicates that Dr. Valdez billed one unit for $50.00 under this procedure code. For this reason, $50.00 is the total allowable amount for this service.

The submitted documentation also indicates that Dr. Valdez performed evaluations to determine the extent of the compensable injury and the ability to return to work. 28 TAC §134.240 states:

> The following shall apply to designated doctor examinations.
>
> (1) Designated doctors shall perform examinations in accordance with Labor Code §§408.004, 408.0041, and 408.151 and division rules, and shall be billed and reimbursed as follows: …
>
> (C) Extent of the employee's compensable injury shall be billed and reimbursed in accordance with §134.235 of this title, with the use of the additional modifier "W6"; …
>
> (E) Ability of the employee to return to work shall be billed and reimbursed in accordance with §134.235 of this title, with the use of the additional modifier "W8."

As directed, 28 TAC §134.235 further states:

> When conducting a division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT code 99456 with modifier "RE."

Because 28 TAC §134.240 states that it is attaching an additional modifier to the billing requirements in 28 TAC §134.235, modifier "RE" must be attached to the procedure code for these services. No evidence was submitted to support that a bill for these services using the correct billing codes was sent to the insurance carrier. Therefore, no reimbursement can be 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 not established that additional reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is not entitled to additional reimbursement for the disputed services.

Authorized Signature

		January 24, 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.