

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Richard Adair, D.C.

**Respondent Name**

National Liability & Fire Insurance Co.

**MFDR Tracking Number**

M4-23-1577-01

**Carrier's Austin Representative**

Box Number 06

**DWC Date Received**

March 6, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
July 27, 2022	Designated Doctor Examination 99456-W5-WP; 99456-RE-W6; 99456-MI	\$1,200.00	\$1,150.00

### Requestor's Position

Submitted documentation does not include a position statement from the requestor. Accordingly, this decision is based on the information available at the time of adjudication.

**Amount in Dispute:** \$1,200.00

### Respondent's Position

The Austin carrier representative for National Liability & Fire Insurance Co. is Stone Loughlin & Swanson, LLP. The representative was notified of this medical fee dispute on March 14, 2023.

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 \(TAC\) §127.10](#), effective September 1, 2012, 37 TexReg 5422, sets out the general procedures for designated doctor examinations for the date of service in question.
2. [28 TAC §127.220](#), effective September 1, 2012, 37 TexReg 5422, sets out the procedures for designated doctor reports for the date of service in question.
3. [28 TAC §130.1](#) sets out the requirements for certification of maximum medical improvement and impairment rating.
4. [28 TAC §133.240](#) sets out the procedures for payment or denial of a medical bill.
5. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
6. [28 TAC §134.235](#) sets out the fee guidelines for examinations to determine the extent of the compensable injury.
7. [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 National Liability & Fire Insurance Co. take final action on the bill for the disputed service before medical fee dispute resolution was requested?
2. Is Richard Adair, D.C. entitled to additional reimbursement?

### Findings

1. Dr. Adair is seeking reimbursement for a designated doctor examination to determine maximum medical improvement, impairment rating, and extent of the compensable injury.

Submitted documentation indicates that Dr. Adair did not receive payment or an explanation of denial for medical bills submitted for the examinations 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. No evidence was provided to support that the insurance carrier took final action on the bill for the service in question.

2. Since the insurance carrier failed to provide any defense for non-payment of the bill in question, Dr. Adair is entitled to reimbursement.

The submitted documentation supports that Dr. Adair performed an evaluation of maximum medical improvement (MMI) 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. Adair performed impairment rating evaluations of left knee 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. Adair performed an examination to determine extent of the compensable injury. According to 28 TAC §134.235, the MAR for this examination is \$500.00.

The submitted documentation indicates that Dr. Adair was asked to address MMI, impairment rating, and extent of injury. Per 28 TAC §127.10 (d), in relevant part,

If a designated doctor is simultaneously requested to address MMI and/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 possible outcome for the extent of the injury ... The designated doctor, however, shall only submit one narrative report required by §130.1 (d)(1)(B) of this title for all impairment ratings assigned and extent of injury findings. All designated doctor narrative reports submitted under this subsection shall also comply with the requirements of §127.220 (a) of this title.

To meet the requirements of 28 TAC §127.220 (a), in relevant part,

Designated doctor narrative reports must be filed in the form and manner required by the division and at a minimum: ...

(3) sufficiently explain how the designated doctor determined the answer to each question within a reasonable degree of medical probability;

(4) demonstrate, as appropriate, application or consideration of the American Medical Association Guides to the Evaluation of Permanent Impairment, division-adopted return-to-work and treatment guidelines, and other evidence-based medicine, if available ...

To support findings of impairment rating, 28 TAC §130.1 (d)(1)(B) states, in relevant part,

- (1) Certification of MMI, determination of permanent impairment, and assignment of an impairment rating (if permanent impairment exists) for the current compensable injury requires completion, signing, and submission of the Report of Medical Evaluation and a narrative report ...
  - (B) The Report of Medical Evaluation includes an attached narrative report. The narrative report must include the following:
    - (iii) findings of the certifying examination, including both normal and abnormal findings related to the compensable injury and an explanation of the analysis performed to find whether MMI was reached; ...
    - (vii) the edition of the AMA Guides that was used in assigning the impairment rating (if the injured employee has permanent impairment) ...

Reimbursement for multiple certifications of MMI and impairment ratings is subject to 28 TAC §134.250, which states, in part,

- (1) The total maximum allowable reimbursement (MAR) for an MMI/IR examination shall be equal to the MMI evaluation reimbursement plus the reimbursement for the body area(s) evaluated for the assignment of an IR. The MMI/IR examination shall include: ...
  - (D) the preparation and submission of reports (including the narrative report, and responding to the need for further clarification, explanation, or reconsideration), calculation tables, figures, and worksheets ...

Review of the documentation submitted with the request for medical fee dispute finds that it includes two Reports of Medical Evaluation (DWC069) addressing the accepted conditions and the accepted conditions plus disputed conditions. However, the attached narrative report does not meet the requirements for certification of MMI and impairment rating found in 28 TAC §130.1 (d)(1)(B) for the findings reported for the accepted conditions plus disputed conditions. Therefore, DWC finds that Dr. Adair is not entitled to reimbursement for multiple certifications of impairment rating.

The total allowable reimbursement for the services in question 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 reimbursement for the disputed services. It is ordered that National Liability & Fire Insurance

Co. must remit to Richard Adair, 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

\_\_\_\_\_  
May 12, 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).