



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Ahmed Khalifa, M.D.

**Respondent Name**

Berkley National Insurance Co.

**MFDR Tracking Number**

M4-23-1694-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

March 16, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
April 2, 2022	Examination to Determine Maximum Medical Improvement and Impairment Rating: 99456-WP	\$300.00	\$300.00
	99456-RE	\$0.00	\$0.00
	Work Status Report: 99080-73	\$15.00	\$0.00
<b>Total</b>		<b>\$315.00</b>	<b>\$300.00</b>

### Requestor's Position

POST DESIGNATED DOCTOR EXAM INCORRECT REDUCTION

**Amount in Dispute:** \$315.00

### Respondent's Position

The Austin carrier representative for Berkley National Insurance Co. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on March 21, 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 §129.5](#) sets out the procedures for work status reports.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §134.239](#) sets out the billing guidelines for work status reports for division-specific examinations.
4. [28 TAC §134.250](#) sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.

### Denial Reasons

Per the explanation of benefits submitted, the insurance carrier denied the payment for the disputed services with the following claim adjustment codes:

- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- B1029 – Recon of historical bill
- CIQ378 – This appeal is denied as we find the original review reflected the appropriate allowance for the service rendered. We find that no additional recommendation is warranted at this time.

### Issues

1. What are the services reviewed in this dispute?
2. Is Ahmed Khalifa, M.D. entitled to additional reimbursement?

### Findings

1. Dr. Khalifa is seeking reimbursement for an examination to determine maximum medical improvement, impairment rating, and ability to return to work. Dr. Khalifa is seeking \$0.00 for the examination to determine ability to return to work; therefore, this examination will not be included in this review. DWC will review the examination to determine maximum medical improvement and impairment rating.

Dr. Khalifa is also seeking reimbursement for completion of a Texas Workers' Compensation

Work Status Report (DWC073). This service will also be reviewed in this report.

2. The submitted documentation supports that Dr. Khalifa performed an evaluation of maximum medical improvement. 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. Khalifa performed impairment rating evaluations of the cervical spine, left knee meniscus tear with range of motion testing, forehead laceration, forehead contusion, left orbital fracture, left eye, and mild neurocognitive disorder.

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 MAR for the evaluation of subsequent musculoskeletal body areas is \$150.00 each.

The rule at 28 TAC §134.250 (4)(D) defines the fees for the calculation of an impairment rating for non-musculoskeletal body areas. The MAR for the assignment of impairment rating for non-musculoskeletal body areas is \$150.00 each.

The total MAR for the determination of impairment rating is \$900.00.

Examination	AMA Chapter	§134.250 Category	Reimbursement Amount
Maximum Medical Improvement			\$350.00
IR: Left Knee (ROM)	Musculoskeletal System	Lower Extremities	\$300.00
IR: Cervical Spine		Spine and Pelvis	\$150.00
IR: Forehead Laceration	Ear, Nose, Throat, and Related Structures	Body Systems	\$150.00
IR: Forehead Contusion			
IR: Left Orbital Fracture			
IR: Left Eye	Visual System	Body Systems	\$150.00
IR: Mild Neurocognitive Disorder	Mental and Behavioral Disorders	Mental and Behavioral Disorders	\$150.00
<b>Total MMI</b>			<b>\$350.00</b>
<b>Total IR</b>			<b>\$900.00</b>
<b>Total Exam</b>			<b>\$1,250.00</b>

Per 28 TAC §134.239, "When billing for a work status report that is not conducted as a part of the examinations outlined in §134.240 and §134.250 of this title, refer to §129.5 of this title." DWC finds that Dr. Khalifa, a doctor selected by the treating doctor acting in place of the treating doctor, provided a work status report that was not conducted as part of the examinations outlined in 28 TAC §§134.240 and 134.250. Therefore, billing for this report is subject to the rules found in 28 TAC §129.5 which states,

- (e) The doctor, delegated physician assistant, or delegated advanced practice registered nurse shall file the Work Status Report:
  - (1) after the initial examination of the injured employee, regardless of the injured employee's work status;
  - (2) when the injured employee experiences a change in work status or a substantial change in activity restrictions; and

- (3) on the schedule requested by the insurance carrier, its agent, or the employer requesting the report through its insurance carrier, which shall not exceed one report every two weeks and which shall be based upon the doctor's, delegated physician assistant's, or delegated advanced practice registered nurse's scheduled appointments with the injured employee ...
- (g) In addition to the requirements under subsection (e) of this section, the treating doctor, delegated physician assistant, or delegated advanced practice registered nurse shall file the Work Status Report with the insurance carrier, employer, and injured employee within seven days of the day of receipt of:
- (1) functional job descriptions from the employer listing available modified duty positions that the employer is able to offer the injured employee as provided by §129.6(a) of this title (relating to Bona Fide Offers of Employment); or
- (2) a required medical examination doctor's Work Status Report that indicates that the injured employee can return to work with or without restrictions ...
- (j) Notwithstanding any other provision of this title, a doctor, delegated physician assistant, or delegated advanced practice registered nurse may bill for, and an insurance carrier shall reimburse, filing a complete Work Status Report required under this section or for providing a subsequent copy of a Work Status Report which was previously filed because the insurance carrier, its agent, or the employer through its insurance carrier asks for an extra copy ...

DWC finds that the submitted evidence does not meet the requirements to support billing for completion of the DWC073 as outlined in 28 TAC §129.5. No reimbursement is recommended for this service.

The total allowable reimbursement for the services in question is \$1,250.00. While no evidence of prior reimbursement was provided, Dr. Khalifa indicated that the insurance carrier paid \$950.00 and is seeking an additional \$300.00. 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 \$300.00 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 Berkley National Insurance Co. must remit to Ahmed Khalifa, M.D. \$300.00 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 24, 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).