



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Robert Jaehne, D.C.

**Respondent Name**

New Hampshire Insurance Co.

**MFDR Tracking Number**

M4-23-2049-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

April 20, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
August 24, 2022	Designated Doctor Examination 99456-W6-RE	\$0.00	\$0.00
	Range of Motion Testing 95851	\$40.00	\$36.60
<b>Total</b>		<b>\$40.00</b>	<b>\$36.60</b>

### Requestor's Position

THE CURRENT RULES ALLOW REIMBURSEMENT.

**Amount in Dispute:** \$40.00

### Respondent's Position

The request for an additional \$40 under CPT code 95851 is inclusive of the extent of injury exam under CPT 99456 with the W6 and RE modifiers. No additional monies are owed.

**Response Submitted by:** Flahive, Ogden & Latson

## 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 §134.203](#) sets out the fee guidelines for professional medical services.
3. [28 TAC §134.210](#) sets out the fee guidelines for division-specific services.
4. [28 TAC §134.235](#) sets out the fee guidelines for examinations to determine the extent of a compensable injury.
5. [28 TAC §134.240](#) sets out the fee guidelines for designated doctor examinations.

### Denial Reasons

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

- 97 – Payment adjusted because the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
- 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

### Issues

1. What are the services considered in this dispute?
2. Is Robert Jaehne, D.C. entitled to additional reimbursement?

### Findings

1. Dr. Jaehne is seeking reimbursement for an examination to determine the extent of the compensable injury represented by procedure code 99456-W6-RE with range of motion testing represented by procedure code 95851.

Dr. Jaehne is seeking \$0.00 for the examination to determine the extent of the compensable injury. Therefore, this examination will not be considered in this dispute. DWC will review reimbursement for the range of motion testing.

2. The rules at 28 TAC §134.210 explain that an examination by a designated doctor to determine the extent of a compensable injury, represented by CPT code 99456 with modifiers "W6" and "RE," is a division-specific service not subject to Medicare billing rules.

Per 28 TAC §134.240, "extent of the employee's compensable injury shall be billed and reimbursed in accordance with §134.235 of this title." If the examining doctor determines that additional testing is required to make a determination, 28 TAC §134.235 requires that the testing "be billed using the appropriate CPT codes and reimbursed in addition to the examination fee."

Documentation submitted to DWC supports that Dr. Jaehne performed range of motion testing for the lumbar spine. Therefore, the doctor is entitled to reimbursement of this service at one unit.

28 TAC §134.203 (b) states:

For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following:

- (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.

28 TAC §134.203 (c) states:

To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

- (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83 ...
- (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year ...

To determine the MAR, the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) x Medicare Participating Amount.

- The DWC conversion factor for 2022 is 62.46.
- The Medicare conversion factor for 2022 is 34.6062.
- Per the submitted medical bills, the service was rendered in zip code 78041 which is in Medicare locality 0441299.

The Medicare participating amount for CPT code 95851 is \$20.28 for the first unit. The MAR is

calculated as follows:  $(62.46/34.6062) \times \$20.28 = \$36.60$ . 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 \$36.60 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 New Hampshire Insurance Co. must remit to Robert Jaehne, D.C. \$36.60 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 19, 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).