



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Dean Rushing, D.C.

Respondent Name

Arch Insurance Co.

MFDR Tracking Number

M4-23-2181-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

May 4, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
September 8, 2022	Designated Doctor Examination 99456-W5-NM	\$350.00	\$350.00
	Specialist Report 99456-W5-SP	\$50.00	\$0.00
Total		\$400.00	\$350.00

Requestor's Position

"AN ORIGINAL BILL AND A RECONSIDERATION WERE SUBMITTED. THE CURRENT RULES ALLOW REIMBURSEMENT."

Amount in Dispute: \$400.00

Respondent's Position

"Our initial response to the above referenced medical fee dispute resolution is as follows: we have escalated the bills in question for bill review audit and payment."

Response Submitted by: Gallagher Bassett

Findings and Decision

Authority

This medical fee dispute is decided according to [Texas Labor Code \(TLC\) §413.031](#) and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Statutes and Rules

1. [28 Texas Administrative Code \(TAC\) §133.240](#) sets out the procedures for payment or denial of a medical bill.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [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 Arch Insurance Co. take final action on the bill for the disputed service before medical fee dispute resolution was requested?
2. Is Dean Rushing, D.C. entitled to additional reimbursement?

Findings

1. Dr. Rushing is seeking reimbursement for a designated doctor examination to determine maximum medical improvement and impairment rating with the inclusion of a specialist's report.

Dr. Rushing argued that he did not receive payment or an explanation of denial for medical bills submitted for the examination 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. Because the insurance carrier failed to provide any defense for the non-payment of the services in question, DWC will review these services for payment.

The submitted documentation supports that Dr. Rushing performed an evaluation of maximum medical improvement (MMI) as ordered by DWC. Dr. Rushing found that the injured employee was not at MMI. 28 TAC §134.250(3)(C) states that the maximum allowable reimbursement for this examination is \$350.00. Because the injured employee was found not to be at MMI, no impairment rating was determined.

Dr. Rushing is seeking additional reimbursement for incorporating additional testing into the examination to determine maximum medical improvement. Dr. Rushing billed this service using procedure code 99456-SP.

28 TAC §134.250(4)(D)(iii) limits billing for incorporating a specialist report into the determination of impairment rating to non-musculoskeletal body areas.

Dr. Rushing provided no evidence to support that a specialist’s report was used in the final determination of an impairment rating of a non-musculoskeletal body area. Therefore, no reimbursement can be recommended for this service.

The total allowable reimbursement for the examination in question 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 requestor 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 reimbursement for the disputed services. It is ordered that Arch Insurance Co. must remit to Dean Rushing, 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

September 1, 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. 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 three 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 tres o correo electrónico CompConnection@tdi.texas.gov.