



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

John Sklar, M.D.

**Respondent Name**

Allmerica Financial Benefit

**MFDR Tracking Number**

M4-23-2360-01

**Carrier's Austin Representative**

Box Number 01

**DWC Date Received**

May 19, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 22, 2022	Designated Doctor Examination 99456-W6-RE	\$500.00	\$500.00
	Designated Doctor Examination 99456-W7-RE	\$250.00	\$250.00
	Designated Doctor Examination 99456-W8-RE	\$125.00	\$125.00
	Range of Motion Testing 95851	\$41.10	\$39.15
<b>Total</b>		<b>\$916.10</b>	<b>\$914.15</b>

### Requestor's Position

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

**Amount in Dispute:** \$916.10

### Respondent's Position

"We received the original bill on March 6, 2023 and processed for review. The bill was disallowed at that time based the following. 'Bills are not payable if the number of days between the date of service/discharge and the submission date exceeds 95 days.'

After careful review it was determined that we did not receive reconsideration. Based on the above no additional allowance is due at this time.”

**Response Submitted by:** Medata

## **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 \(TAC\) §133.20](#) sets out the procedures for submission of medical bills.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §134.203](#) sets out the fee guidelines for professional services.
4. [28 TAC §134.235](#) sets out the fee guidelines for examinations to determine extent of injury, return to work, and disability.
5. [28 TAC §134.240](#) sets out the regulations for designated doctor examinations.

### Denial Reasons

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

- P12 – Workers’ compensation jurisdictional fee schedule adjustment.
- AG(P12) – Fee schedule reimbursement is not valid for this service.
- XE(P12) – Bills are not payable if the number of days between the date of service/discharge and the submission date exceeds 95 days.

### Issues

1. Is Allmerica Financial Benefit’s denial based on timely filing supported?
2. Is John Sklar, M.D. entitled to additional reimbursement?

### Findings

1. Dr. Sklar is seeking reimbursement for a designated doctor examination performed on October 22, 2022. Per explanation of benefits dated March 15, 2023, the insurance carrier denied reimbursement based on timely filing.

According to 28 TAC §133.20 (b), a health care provider must submit a medical bill within 95

days from the date of service with few exceptions.

The greater weight of evidence provided to DWC supports that Dr. Sklar submitted the bill for the examination in question to the insurance carrier on or about November 1, 2022. This is less than 95 days from the date of service.

DWC finds that the denial of payment for this reason is not supported.

2. Because the insurance carrier's reason for denial of payment was not supported, DWC finds that Dr. Sklar is entitled to reimbursement for the services in question.

The submitted documentation indicates that Dr. Sklar performed examinations to determine the extent of the compensable injury, if the injured employee's disability was related to the compensable injury, and the ability to return to work.

According to 28 TAC §134.235, the maximum allowable reimbursement (MAR) for such examinations is \$500.00. Rules for multiple examinations of this type are found at 28 TAC §134.240(2).

Not including maximum medical improvement and impairment rating, when multiple examinations of this type are required, the first examination is reimbursed at 100% of MAR. The second examination is reimbursed at 50%. Additional examinations are reimbursed at 25%.

For this dispute, the MAR for the examination to determine the extent of the compensable injury is \$500.00. The examination to determine disability is \$250.00. The examination to determine the ability to return to work is \$125.00.

If the examining doctor determines that additional testing is required for examinations other than maximum medical improvement and impairment rating, 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. Sklar performed range of motion testing of the cervical spine. Range of motion testing, represented by CPT code 95851, was billed at one unit for the spine.

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 77027 which is in Medicare locality 0441218.

The Medicare participating amount for CPT code 95851 is \$21.69 for the first unit. The maximum allowable reimbursement is calculated as follows:  $(62.46/34.6062) \times \$21.69 = \$39.15$ .

The total allowable reimbursement for the services in question is \$914.15. 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 \$914.15 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 Allmerica Financial Benefit must remit to John Sklar, M.D. \$914.15 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

July 7, 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 three 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 tres o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).