



## Amended Medical Fee Dispute Resolution Findings and Decision General Information

**Requestor Name**

David M. Griffith, D.C.

**Respondent Name**

Liberty Insurance Corporation

**MFDR Tracking Number**

M4-23-2657-02

**Carrier's Austin Representative**

Box Number 01

**DWC Date Received**

June 19, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 2, 2022	99546-W5-WP Designated Doctor Examination	\$500.00	\$500.00
<b>Total</b>		\$500.00	\$500.00

### 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:** \$500.00

### Respondent's Position

JT Parker & Associates, LLC is Liberty Insurance Corporation's Austin carrier representative. On June 27, 2023, the representative was informed of the dispute over the medical fees. In accordance with 28 Texas Administrative Code 133.307(d)(1), the DWC may base its decision on the information at hand if it does not receive a response within 14 calendar days of receiving the dispute notification. As of this time, the insurance carrier or its representative has not responded to the medical fee dispute resolution request. The decision is therefore, based on the information contained in the dispute as of the time of this review.

## Amended Findings and Decision

### Authority

By Official Order Number 6695 dated February 26, 2021, the undersigned has been delegated authority by the Commissioner to **amend** fee dispute decisions.

This **amended** findings and decision supersedes all previous decisions rendered in this medical payment dispute involving the above requestor and respondent.

This medical fee dispute is decided pursuant to Texas Labor Code (TLC) §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### Statutes and Rules

1. 28 Texas Administrative Code (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.203 sets out the fee guideline for professional medical services.
3. 28 TAC §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.
4. 28 TAC §134.240, effective July 7, 2016, sets the reimbursement guidelines for Designated Doctor Examinations.

### Denial Reason(s)

Neither party submitted explanation of benefits (EOBS) with reasons for the denial of payment for the services in dispute.

### Issues

1. Did the workers' compensation insurance carrier respond to the request for medical fee dispute resolution?
2. Did the insurance carrier timely pay, reduce, deny, or take final action on the services in dispute?
3. Is the Requestor entitled to reimbursement?

### Findings

1. The insurance carrier's Austin representative was notified of the medical fee dispute resolution request on June 27, 2023. As of this day, the insurance carrier has not responded to the MFDR request.

28 TAC §133.307(d) requires that "responses to a request for MFDR shall be legible and submitted to the division and to the requestor in the form and manner prescribed by the division."

Rule §133.307(d)(1) further requires that "The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile within 14 calendar days after the date the respondent received the copy of the requestor's dispute. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information."

As of the date of this review, the division has not received a response from the insurance carrier. The division concludes the respondent has failed to meet the requirements of Rule §133.307(d)(1). Consequently, this decision is based on the information available at the time of review.

2. The requestor contends that they "have not received any correspondence from the insurance carrier" for the disputed services.

Rule §133.307(c)(2)(K) requires that the requestor shall provide with the request for MFDR:

a paper copy of each explanation of benefits (EOB) related to the dispute . . . or, if no EOB was received, convincing documentation providing evidence of insurance carrier receipt of the request for an EOB.

The DWC finds that the requestor submitted sufficient documentation to support that a legible medical bill was submitted to the insurance carrier for review.

Rule §133.307(d)(2)(B) requires that upon receipt of the request for medical fee dispute resolution, the respondent shall provide any missing information not provided by the requestor and known to the respondent, including:

a paper copy of all initial and appeal EOBs related to the dispute, as originally submitted to the health care provider in accordance with this chapter, related to the health care in dispute not submitted by the requestor or a statement certifying that the respondent did not receive the health care provider's disputed billing prior to the dispute request.

The insurance carrier did not respond or submit copies of any EOBs as required by Rule §133.307(d)(2)(B). While the submitted evidence supports the health care provider's timely submission of the medical bills to the insurance carrier, no information was found to support the insurance carrier ever took final action or issued EOBs in accordance with the requirements of Rules § 133.240 (a) and (e). The division concludes the respondent failed to meet the requirements of the above rules.

As no information was presented to support that the insurance carrier had provided to the requestor any denial reasons or defenses pertaining to the disputed services, prior to the filing of the MFDR request, the division finds the respondent has waived any such defenses. The disputed services will therefore be reviewed for payment according to applicable division rules and fee guidelines.

3. The requestor seeks reimbursement for a designated doctor exam ordered by the division to determine maximum medical improvement and impairment rating.

The designated doctor is required to bill an examination to determine maximum medical improvement with CPT code 99456 and modifier "W5."

The submitted documentation supports that David M. Griffith, D.C., performed an evaluation of maximum medical improvement as ordered by the DWC. The maximum allowable reimbursement (MAR) for this examination is \$350.00. The examining doctor is required to bill an examination to determine the impairment rating of an injury with CPT code 99456 and modifier "W5."

Modifier "WP" is added if the examining doctor performs the MMI examination and the IR testing of the musculoskeletal body area.

Rule §134.250 states, "(4) The following applies for billing and reimbursement of an IR evaluation (C) For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas... (ii) The MAR for musculoskeletal body areas shall be as follows: (I) \$150 for each body area if the diagnosis related estimates (DRE) method found in the AMA Guides fourth edition is used."

The submitted documentation supports that David M. Griffith, D.C., provided an impairment rating of the lumbosacral spine, using the DRE method. The submitted documentation supports that David M. Griffith, D.C., is entitled to reimbursement of \$150.00, for a total reimbursement of \$500.00 for the disputed service. The insurance carrier paid \$0.00. Reimbursement of \$500.00 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 reimbursement of \$500.00 is due.

## Order

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$500.00, plus applicable accrued interest per 28 TAC §134.130, due within 30 days of receipt of this Order.

### Authorized Signature

_____	_____	September 15, 2023
Signature	Medical Fee Dispute Resolution Officer	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).