



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Jack P. Mitchell, Jr., D.C.

Respondent Name

Accident Fund Insurance Co. of America

MFDR Tracking Number

M4-23-2794-01

Carrier's Austin Representative

Box Number 06

DWC Date Received

July 5, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
November 4, 2022	Examination to Determine Maximum Medical Improvement and Impairment Rating – 99456-WP	\$650.00	\$0.00
	Examination to Determine Extent of the Compensable Injury – 99456-WP	\$500.00	\$0.00
	Radiology – 73080-WP	\$75.00	\$0.00
	Multiple Impairment Calculations 99456-WP-MI	\$100.00	\$0.00
Total		\$1,325.00	\$0.00

Requestor's Position

"DOS 11/04/2022, code 99456-WP (1) unit represents MMI/IR examination by a Doctor for an alternative certification under 408.0041 (f-2) and 408.0041(h) of the Texas Labor Code requires the workers compensation insurance carrier to pay for treating doctor or referral doctor examination to certify MMI and IR when MMI and IR have first been certified by a designated doctor and the injured employee disagrees with the designated doctor's opinion. Per Rule 126.17 guideline for examination by a treating doctor or referral doctor after a designated doctor examination to address issues other than MMI and IR is followed. Out of Network approval is not needed. The examinee had a previous DDE for the purpose of MMI/IR/EOI and multiple impairments ... The purpose of the exam was to provide an alternative certification for

all injuries claimed and EOI and pre-authorization is not required per DWC Rules.”

Amount in Dispute: \$1,325.00

Respondent's Position

“Dr. Mitchell is not entitled to payment pursuant to Labor Code section 408.0041(f-2) because the Designated Doctor’s certification of MMI/IR was not the first such certification and, at the time of Dr. Mitchell’s exam, the Claimant already had a certification of MMI/IR from a treating doctor referral. He was not entitled to a second one from a different treating doctor referral.”

Response Submitted by: Stone Loughlin Swanson

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 \(TAC\) §133.307](#) 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 §134.235](#) sets out the fee guidelines for examinations to determine the extent of the compensable injury.
4. [28 TAC §134.250](#) sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.
5. [TLC 408.0041](#) sets out the requirements for designated doctor examinations.

Denial Reasons

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

- 01(P12) – The charge for the procedure exceeds the amount indicated in the fee schedule.
- OF(P12) – The reported modifier is not valid for the procedure code or service.
- 5088 – Provider not authorized
- 5089 – Service(s) not authorized
- 5347 – Services are unreasonable and unnecessary
- 5555 – The Claim Adjustor Objects to the Provider’s Charges for the reason(s) in the note below
- TX P12 – Workers’ compensation jurisdictional fee schedule adjustment.

Issues

1. Is Jack P. Mitchell, D.C. entitled to reimbursement for an examination to determine maximum medical improvement and impairment rating with multiple impairment calculations?
2. Is Dr. Mitchell entitled to reimbursement for multiple impairment calculations?
3. Is Dr. Mitchell entitled to reimbursement for an examination to determine the extent of the compensable injury?
4. Is Dr. Mitchell entitled to reimbursement for radiological services?

Findings

1. Dr. Mitchell is seeking reimbursement for an examination to determine, in part, maximum medical improvement (MMI) and impairment rating (IR) performed on November 4, 2022. The insurance carrier denied payment stating, in part, "Service(s) not authorized."

TLC §408.0041(f-2) allows an injured employee that is not satisfied with the designated doctor's opinion to request an examination for MMI and IR from the treating doctor or a doctor referred by the treating doctor if the designated doctor's opinion is the employee's first evaluation.

Evidence available to DWC indicates that Larry R. Isbell, D.C. performed an examination to determine MMI and IR on June 29, 2022, placing the injured employee at MMI. The designated doctor performed an examination to determine MMI and IR on September 28, 2022, placing the injured employee at MMI.

Because the designated doctor examination is not the first evaluation of MMI and IR, Accident Fund Insurance Co. of America's denial is supported. DWC finds that Dr. Mitchell is not entitled to reimbursement for the examination in question.

2. Dr. Mitchell is seeking reimbursement for the calculation of an additional impairment rating given as part of an examination performed due to a referral from the treating doctor. 28 TAC §134.250(4)(B) reserves reimbursement for multiple impairment ratings performed as part of a **designated doctor** examination.

The evidence presented with the dispute request does not support that this service was provided as part of a designated doctor examination. Therefore, Dr. Mitchell is not entitled to reimbursement for this service.

3. The services in question include an examination to determine the extent of the compensable injury billed using CPT code 99456. Per 28 TAC §134.235, an examination to determine the extent of the compensable injury is billed using CPT code 99456 only when the examination was requested by DWC or the insurance carrier. No evidence was received to support that the examination in question was requested by DWC or the insurance carrier. Dr. Mitchell is not entitled to reimbursement for this examination.

4. Dr. Mitchell is also seeking reimbursement for procedure code 73080. Reimbursement for this code is found in §134.203, which states, in relevant part, "(b) 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."

Procedure code 73080 is defined as "Radiologic examination, elbow; complete, minimum of 3 views." Review of the documentation provided does not support that a radiological examination with a minimum of three views was performed on the date of service in question. For this reason, DWC finds that Dr. Mitchell is not entitled to reimbursement for this procedure code.

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 not established that additional reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

September 15, 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.