



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Keven Ellis, D.C.

**Respondent Name**

East Texas Educational Insurance Assoc.

**MFDR Tracking Number**

M4-23-2865-01

**Carrier's Austin Representative**

Box Number 17

**DWC Date Received**

July 13, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
February 28, 2023	Designated Doctor Examination 99456-W5-WP	\$150.00	\$150.00

### Requestor's Position

"This examination was a designated doctor examination allowed by the TDI-DWC. My determination of the compensable injury included the (redacted) and (redacted). In performing the impairment rating the first area that requires a ROM examination, which would be the (redacted), is to be billed at \$300 and any subsequent body part(s) are to be billed at \$150. This results in a \$450 charge for the two units which was properly billed per the TDI-DWC Texas Medical Fee Guidelines."

**Amount in Dispute:** \$150.00

### Respondent's Position

"[The adjuster] requested an examination of the Upper Extremities ... When the exam was completed, Dr. Ellis rendered an MMI/IR for the Upper Extremities but in addition, he rendered and IR for the cervical, which, was never requested. Payment issued was for one body area to include Upper Extremities only."

**Response Submitted by:** Claims Administrative Service, Inc.

## 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 \(TAC\) §127.10, effective December 6, 2018](#), sets out the procedures for designated doctor examinations for the date of service considered in this dispute.
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

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

- 790 – This charge was reimbursed in accordance to the Texas Medical Fee Guideline.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.

### Issues

1. Is Keven Ellis, D.C. entitled to additional reimbursement for the examination in question?

### Findings

1. Dr. Ellis is seeking additional reimbursement for a designated doctor examination to determine maximum medical improvement and impairment rating.

The submitted documentation finds that Dr. Ellis performed an evaluation of maximum medical improvement as ordered by DWC. 28 TAC §134.250(3)(C) states that the maximum allowable reimbursement (MAR) for this examination is \$350.00.

Review of the submitted documentation finds that Dr. Ellis performed impairment rating evaluations of the (redacted) with range of motion testing. The insurance carrier argued that "Dr. Ellis rendered an MMI/IR for the Upper Extremities but in addition, he rendered an IR for the (redacted), which, was never requested."

Per 28 TAC §127.10, effective December 6, 2018, "(b) Before examining an injured employee, the designated doctor shall review the injured employee's medical records, including any analysis of the injured employee's medical condition, functional abilities and return to work opportunities provided by the insurance carrier and treating doctor in accordance with subsection (a) of this section, and any materials submitted to the doctor by the division. The

designated doctor shall also review the injured employee's medical condition and history as provided by the injured employee, any medical records provided by the injured employee, and shall perform a complete physical examination of the injured employee. The designated doctor shall give the medical records reviewed the weight the designated doctor determines to be appropriate."

While the insurance carrier argued that the (redacted) was not requested as part of the designated doctor examination in question, it failed to demonstrate that this body area, as documented in the doctor's submitted narrative, was not part of the compensable injury. DWC finds that Dr. Ellis performed an impairment rating in accordance with 28 TAC §127.10.

28 TAC §134.250(4)(C)(ii) defines the fees for the calculation of an impairment rating for musculoskeletal body areas. The MAR for the evaluation of the first musculoskeletal body area performed with range of motion is \$300.00. The MAR for the evaluation of subsequent musculoskeletal body areas is \$150.00 each.

The total allowable reimbursement for the examination in question is \$800.00. The insurance carrier paid \$650.00. An additional reimbursement of \$150.00 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 requestor has established that additional reimbursement of \$150.00 is due.

### **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that East Texas Educational Insurance Assoc., must remit to Keven Ellis, D.C. \$150.00 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 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](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).