



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Patrick Waikem, D.C.

**Respondent Name**

XL Specialty Insurance Co.

**MFDR Tracking Number**

M4-24-0160-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

September 20, 2023

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
April 13, 2023	Designated Doctor Examination 99456-W5-26; 99456- W5-TC; 99456-W8-RE	\$1,600.00	\$800.00
	Work Status Report 99080-73	\$0.00	\$0.00
<b>Total</b>		<b>\$1,600.00</b>	<b>\$800.00</b>

### Requestor's Position

"These services were requested and prescribed by the Division. The above referenced designated doctor performed the MMI examination and assigned the IR, but he did not perform the range of motion, strength, or sensory testing of the musculoskeletal body area(s), that means he should bill using the appropriate MMI CPT code 99456 with the component modifier – 26. Reimbursement for the examining doctor is 80% of the MAR.

"The physical therapist and/or health care provider other than the examining doctor that performs the range of motion, strength, or sensory testing of the musculoskeletal body, the physical therapist and/or health care provider will bill with the component – TC. In this instance, reimbursement to the physical therapist and/or health care provider is 20% of the MAR."

**Amount in Dispute:** \$1,600.00

## Respondent's Position

"Supplemental response will be provided once the bill auditing company has finalized their review.

"Attached is a copy of all bills received to date, and their corresponding EOB's and payment details."

**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 \(TAC\) §133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 TAC §134.250](#) sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.

### Denial Reasons

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

- 97 – The benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated.
- TX217 – The value of this procedure is included in the value of another procedure performed on this date.
- 18 – Exact duplicate claim/service.
- TX224 – Duplicate charge.
- 95 – Plan procedures not followed.

### Issues

1. What are the services considered in this dispute?
2. Is the insurance carrier's denial of payment supported?
3. Is Patrick Waikem, D.C. entitled to additional reimbursement for the examination in question?

### Findings

1. Dr. Waikem is seeking additional reimbursement for a designated doctor examination

performed on April 13, 2023 to determine maximum medical improvement, impairment rating, and ability to return to work.

Per explanations of benefits submitted to DWC, the insurance carrier paid in full for the evaluation of the injured employee's ability to return to work. Therefore, this service will not be reviewed in this dispute.

Dr. Waikem is seeking \$0.00 for completing a Work Status Form. Therefore, this service will not be reviewed in this dispute.

Dr. Waikem is seeking \$1,600.00 for the evaluation of maximum medical improvement and impairment rating. This will be reviewed in this dispute.

2. The insurance carrier denied the disputed evaluation indicating that "the benefit for this service is included in the payment/allowance for another service/procedure that has already been adjudicated" and "the value of this procedure is included in the value of another procedure performed on this date."

Reimbursement for examinations to determine maximum medical improvement and impairment rating is found in 28 TAC §134.250. These services are not subject to inclusion in the payment of other services. DWC finds that the insurance carrier's denial of payment for these reasons is not supported.

3. The submitted documentation supports that Dr. Waikem performed an evaluation of maximum medical improvement as ordered by the 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. Waikem performed impairment rating evaluations of the spine and left shoulder with range of motion testing. 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.

DWC finds that the total allowable reimbursement for the services considered in this dispute is \$800.00. 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 \$800.00 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 XL Specialty Insurance Co. must remit to Patrick Waikem, D.C. \$800.00 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

December 28, 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).