

**SUBCHAPTER B. HEALTH CARE PROVIDER BILLING PROCEDURES.  
28 TAC §133.30.**

**INTRODUCTION.** The Texas Department of Insurance, Division of Workers' Compensation (DWC) adopts amendments to 28 TAC §133.30, concerning telemedicine, telehealth, and teledentistry services. Section 133.30 implements Texas Labor Code §413.011. The DWC medical advisor recommended the amendments to the commissioner of workers' compensation under Labor Code §413.0511(b).

The amendments to §133.30 are adopted with two changes to the proposed text published in the December 6, 2024, issue of the *Texas Register* (49 TexReg 9942). DWC updated the effective dates to June 1, 2025. Section 133.30 will be republished.

**REASONED JUSTIFICATION.** The amendments to §133.30 allow a treating doctor to use telemedicine or telehealth to certify maximum medical improvement (MMI) under §§130.1 and 130.2 of this title, concerning certification of MMI and evaluation of permanent impairment, under the following conditions. The injured employee must have been examined by the treating doctor for the condition in question at least once before the examination to certify MMI. The injured employee must consent to the examination to certify MMI by telemedicine or telehealth. The condition in question must qualify as a minor injury, such as §130.2(a)(2) of this title contemplates, that requires no additional treatment, and has resulted in no impairment. A minor injury does not require application of the American Medical Association (AMA) Guides, so under §130.1 of this title, the treating doctor is allowed to certify MMI with no impairment.

The amendments specify that such an evaluation must be billed in compliance with the MMI billing requirements in §134.250 of this title, concerning MMI evaluations and impairment rating examinations by treating doctors. The treating doctor's billing and

reimbursement are the same for an in-person MMI evaluation and a telemedicine MMI evaluation. They do not expand the scope of practice or authorize new treatments. Health care providers should refer to their licensing boards' rules for practicing telemedicine and telehealth. The amendments do not allow a doctor to assign an impairment rating by a telemedicine or telehealth examination. The amendments are effective for examinations conducted by treating doctors to certify MMI by telemedicine or telehealth conducted on or after June 1, 2025.

Amending §133.30 is necessary to ensure better and more convenient access to evaluations necessary to certify MMI, to ensure that more required MMI evaluations are conducted on time, and to clarify how doctors must bill and be reimbursed for MMI evaluations conducted by telemedicine or telehealth. For example, when a treating doctor treats and releases an injured employee for a minor injury, such as a scrape or a bruise, and does not anticipate that the injured employee will need additional treatment, the amendments allow the treating doctor to use telemedicine or telehealth to determine that the injured employee has reached MMI but has no permanent impairment. Treating doctors can certify MMI under current rules, and the amendments just allow them to do so by telemedicine or telehealth under specific conditions. In addition, the number of disputes from treating doctor certifications of MMI under current rules is very low. Based on medical billing data reported to DWC, treating doctors submitted over 36,000 bills in calendar year 2023 for these MMI examinations. Over 34,000 claims were associated with those bills containing CPT code 99455 (work-related or medical disability evaluation services), and of those claims, only 259 were associated with an MMI or impairment rating dispute.

Labor Code §413.011 requires the commissioner to adopt health care reimbursement policies and guidelines that reflect the standardized reimbursement

structures found in other health care delivery systems with minimal modifications to those reimbursement methodologies as necessary to meet occupational injury requirements. It also requires that the commissioner's adopted medical policies or guidelines be designed to ensure the quality of medical care and achieve medical cost control, and to enhance a timely and appropriate return to work. Amending §133.30 to allow a treating doctor to use telemedicine or telehealth to certify MMI and to ensure that billing and reimbursement for that evaluation are consistent with the billing requirements in §134.250 meets the requirements in Labor Code §413.011.

DWC invited public comments on an informal draft posted on DWC's website in July 2024 and revised the text to be more specific about the conditions under which a treating doctor may perform a telemedicine or telehealth examination to certify MMI. In addition, DWC held a hearing on the proposed amendments on January 8, 2025.

### **SUMMARY OF COMMENTS AND AGENCY RESPONSE.**

**Commenters:** DWC received three written comments by the January 13, 2025, deadline, and one oral comment at the January 8, 2025, hearing, which was also provided in writing. Commenters in support of the proposal were: Concentra, Enlyte (Coventry), HCA Healthcare, and the Office of Injured Employee Counsel (OIEC). No commenters were against the proposal.

**Comment on §133.30.** At the hearing, Enlyte (Coventry) stated that the amendment to allow for a treating doctor to use telemedicine or telehealth to certify MMI of minor injuries with no impairment addresses a significant concern among treating providers who also certify MMI. Currently to provide in-person MMI evaluations, providers are flying out to rural clinics monthly to perform examinations, which comes with increased costs in

travel and administration for providers who must balance already packed schedules to move practitioners around the state. This current situation also increases personal costs and confusion for injured workers who are waiting inordinately and unnecessarily long amounts of time to receive a MMI evaluation. By trusting clinicians and their training to make these video determinations, the rule change will create significant opportunities for treating partners in Texas, will reduce unnecessary delays and costs within the system, and will create significant cost and time saving efficiencies for injured workers in Texas, especially those who live far from a potential in-person examination location, resulting in more efficient and complete care for injured workers.

**Agency Response to Comment on §133.30.** DWC appreciates the comment.

**Comment on §133.30.** Concentra stated that the change allows for telehealth or telemedicine to be used in workers' compensation exams to certify MMI when no impairment is present; that in Concentra's experience, when often treating very minor injuries with no impairment, timely closure of these cases is important to assure that the injured worker can timely return to work; and that Concentra fully supports the proposed changes.

**Agency Response to Comment on §133.30.** DWC appreciates the comment.

**Comment on §133.30.** HCA Healthcare stated that they were in favor of the proposed changes that would permit a treating doctor via a telemedicine encounter to certify MMI in the case of a minor injury where no impairment exists. They noted that advanced practice providers (APPs) often treat injured workers with minor injuries, that injured workers seldom return to see the treating doctor to certify MMI in those cases, and that the proposed rule would reduce the barrier to certify MMI without impairment when the

injured worker is unlikely to return to the clinic. HCA Healthcare expressed concern about the requirement that the treating doctor must have examined the injured worker at least once before the certifying examination, so if only an APP has provided care and the injured worker will not return to the clinic, the treating doctor still will not be able to certify MMI.

**Agency Response to Comment on §133.30.** DWC appreciates the comment. Because the workers' compensation system is set up with the treating doctor responsible for the injured employee's care, the requirement for the treating doctor to have an established relationship with the injured employee before certifying MMI is an important safeguard to ensure that the treating doctor has the information needed to make an accurate certification.

**Comment on §133.30.** OIEC supported the proposed rule allowing for certification of MMI under these circumstances. OIEC appreciated DWC adding requirements before a treating doctor conducts an MMI certifying examination via telemedicine.

**Agency Response to Comment on §133.30.** DWC appreciates the comment.

## **SUBCHAPTER B. HEALTH CARE PROVIDER BILLING PROCEDURES.**

### **28 TAC §133.30.**

**STATUTORY AUTHORITY.** The commissioner of workers' compensation adopts the amendments to 28 TAC §133.30 under Labor Code §§413.011, 413.0511, 402.00111, 402.00116, and 402.061.

Labor Code §413.011 requires the commissioner to adopt health care reimbursement policies and guidelines that reflect the standardized reimbursement structures found in other health care delivery systems with minimal modifications to those

reimbursement methodologies as necessary to meet occupational injury requirements. It also requires that the commissioner's adopted medical policies or guidelines be designed to ensure the quality of medical care and achieve medical cost control, and to enhance a timely and appropriate return to work.

Labor Code §413.0511 requires DWC to employ or contract with a medical advisor. The medical advisor must be a doctor, as defined in §401.011. The medical advisor's duties include making recommendations about the adoption of rules and policies to: develop, maintain, and review guidelines as provided by §413.011, including rules about impairment ratings; review compliance with those guidelines; regulate or perform other acts related to medical benefits as required by the commissioner; and determine minimal modifications to the reimbursement methodology and model used by the Medicare system as needed to meet occupational injury requirements.

Labor Code §402.00111 provides that the commissioner of workers' compensation shall exercise all executive authority, including rulemaking authority under Title 5 of the Labor Code.

Labor Code §402.00116 provides that the commissioner of workers' compensation shall administer and enforce this title, other workers' compensation laws of this state, and other laws granting jurisdiction to or applicable to DWC or the commissioner.

Labor Code §402.061 provides that the commissioner of workers' compensation shall adopt rules as necessary to implement and enforce the Texas Workers' Compensation Act.

**TEXT.**

**§133.30. Telemedicine, Telehealth, and Teledentistry Services.**

(a) This section applies to medical billing and reimbursement for telemedicine, telehealth, and teledentistry services provided on or after September 1, 2021, to injured employees in the Texas workers' compensation system, including injured employees subject to a workers' compensation health care network established under Insurance Code Chapter 1305.

(b) For the purposes of this section:

(1) "Telemedicine services" means telemedicine medical services as defined in Occupations Code §111.001.

(A) The term includes an examination by a treating doctor to certify maximum medical improvement (MMI), conducted on or after June 1, 2025, under §§130.1 and 130.2 of this title (relating to Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment) to determine whether an injured employee has reached MMI, that meets the following conditions:

(i) the injured employee has been examined by the treating doctor for the condition in question at least once before the examination to certify MMI;

(ii) the injured employee consents to the examination to certify MMI by telemedicine; and

(iii) the condition in question qualifies as a minor injury, such as §130.2(a)(2) of this title contemplates, requires no additional treatment, and has resulted in no impairment.

(B) The term does not include an examination to assign an impairment rating conducted under §130.1 of this title.

(2) "Telehealth services" means telehealth services as defined in Occupations Code §111.001.

(A) The term includes an examination by a treating doctor to certify MMI, conducted on or after June 1, 2025, under §§130.1 and 130.2 of this title (relating to Certification of Maximum Medical Improvement and Evaluation of Permanent Impairment) to determine whether an injured employee has reached MMI, that meets the following conditions:

(i) the injured employee has been examined by the treating doctor for the condition in question at least once before the examination to certify MMI;

(ii) the injured employee consents to the examination to certify MMI by telehealth; and

(iii) the condition in question qualifies as a minor injury, such as §130.2(a)(2) of this title contemplates, requires no additional treatment, and has resulted in no impairment.

(B) The term does not include an examination to assign an impairment rating conducted under §130.1 of this title.

(3) "Teledentistry services" means teledentistry dental services as defined in Occupations Code §111.001.

(c) Except as provided in subsection (d) of this section, a health care provider must bill for telemedicine, telehealth, and teledentistry services according to applicable:

(1) Medicare payment policies, as defined in §134.203 of this title (relating to Medical Fee Guideline for Professional Services);

(2) Medicaid payment policies, in accordance with the dental fee guideline in §134.303 of this title (relating to 2005 Dental Fee Guideline);

(3) MMI billing requirements in §134.250 of this title (relating to Maximum Medical Improvement Evaluations and Impairment Rating Examinations by Treating Doctors); and

(4) provisions of Chapter 133 of this title.

(d) A health care provider may bill and be reimbursed for telemedicine, telehealth, or teledentistry services regardless of where the injured employee is located at the time the telemedicine, telehealth, or teledentistry services are provided.

(e) The provisions of this section take precedence over any conflicting provisions adopted or used by:

(1) the Centers for Medicare and Medicaid Services in administering the Medicare program; and

(2) the Texas Health and Human Services Commission in administering the Texas Medicaid Program.

**CERTIFICATION.** The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on February 4, 2025.



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Kara Mace  
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The commissioner adopts amended 28 TAC §133.30.



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Jeff Nelson  
Commissioner  
TDI, Division of Workers' Compensation

Commissioner's Order No. 2025-9123