TEXAS DEPARTMENT OF INSURANCE
Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)
7551 Metro Center Drive, Suite 100, Austin, Texas 78744-1645
(512) 804-4000 | F: (512) 804-4811 | (800) 252-7031 | TDI.texas.gov | @TexasTDI

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name
Margaret Wells, M.D.

Respondent Name
Texas Mutual Insurance Company

MFDR Tracking Number
M4-11-2027

Carrier's Austin Representative
Box Number 54

MFDR Date Received
January 31, 2011

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "This claimant was requested to have a DESIGANTED DOCTORS EVALUATION per the TDI-DWC… This appointment was not cancelled nor were we informed that this claim was not an accepted workers compensation claim, thus exam was billed per the TDI Rule 133.240 (a) and to be reimbursed at the 100% of the billed charges with out reductions being taken."

Amount in Dispute: $500.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The Division placed a copy of the Medical Fee Dispute Resolution request in the insurance carrier's Austin representative box, which was acknowledged received on February 24, 2011. Per 28 Texas Administrative Code §133.307(d)(1), "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." The insurance carrier did not submit any response for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 16, 2010	Designated Doctor Examination	$500.00	$500.00

FINDINGS AND DECISION

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

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §130.6, effective January 1, 2007, 33 TexReg 6368, sets out the procedures for

Designated Doctor examinations for maximum medical improvement and impairment ratings.

3. 28 Texas Administrative Code §134.1, effective March 1, 2008, 33 TexReg 364, addresses medical reimbursement for this date of service.
4. 28 Texas Administrative Code §134.204, effective March 1, 2008, 33 TexReg 364, sets out the fee guidelines for billing and reimbursement of division-specific services.
5. Texas Labor Code §408.0041, effective September 1, 2007, provides guidance for designated doctor examinations.
6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
   - CAC-W1 – Workers compensation state fee schedule adjustment
   - 788 – Texas Star Network physician may not perform DD exams for workers receiving care through the same network per Rule 126.7(a).
   - CAC-193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
   - 724 – No additional payment after a reconsideration of services.

Issues

1. Is the insurance carrier's reason for denial of payment supported?
2. What is the maximum allowable reimbursement (MAR) for the disputed services?
3. Is the requestor entitled to additional reimbursement?

Findings

1. The dispute involves reimbursement of fees for a designated doctor examination. The insurance carrier denied payment because the designated doctor was contracted with the same network under which the injured employee's claim is administered, using claim adjustment code 788 – "TEXAS STAR NETWORK PHYSICIAN MAY NOT PERFORM DD EXAMS FOR WORKERS RECEIVING CARE THROUGH THE SAME NETWORK PER RULE 126.7(A)."

   28 Texas Administrative Code §134.1 states,

   > (b) Medical reimbursement for health care services provided to injured employees subject to a workers' compensation health care network established under Insurance Code Chapter 1305 shall be made in accordance with the provisions of Insurance Code Chapter 1305, **except as provided in subsections (c)** [emphasis added] and (d) of this section.
   > (c) Examinations conducted pursuant to Labor Code §§408.004, **408.0041** [emphasis added], and 408.151 **shall be reimbursed in accordance with §134.204** [emphasis added] of this chapter…

   Texas Labor Code §408.0041 provides the authority of the Commissioner of the Division of Workers' Compensation to order a designated doctor examination. Further, subsection (h) of this statute states, "The insurance carrier shall pay for: (1) an examination required under Subsection (a)."

   Review of the submitted documentation finds that the requestor was ordered to perform the designated doctor examination in question via EES-14 dated August 26, 2010. Therefore, the disputed services were provided pursuant to Texas Labor Code §408.0041(a). The insurance carrier's reason for denial of payment is not supported and shall be reviewed according to 28 Texas Administrative Code §134.204.

2. Per 28 Texas Administrative Code §134.204 (k),

   > The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier 'RE.' In either instance of whether MMI/IR is performed or not, the reimbursement shall be $500 in accordance with subsection (i) of this section and shall include Division-required reports. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee.

   The submitted documentation indicates that the Designated Doctor performed an examination to determine the extent of the compensable injury. Therefore, the correct MAR for this examination is $500.00.

3. The total MAR for the disputed service is $500.00. The insurance carrier paid $0.00. A reimbursement of $500.00 is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $500.00.

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 additional 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 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

	Laurie Garnes	January 22, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MFDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of this *Medical Fee Dispute Resolution Findings and Decision***, together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.