



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Donald Gwartney, D.C.

Respondent Name

TASB Risk Management Fund

MFDR Tracking Number

M4-18-2761-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

March 30, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Our office never received the Commissioner order of cancellation or stay of exam from the DWC. The injured employee also showed and was never informed by the DWC of the cancellation."

Amount in Dispute: \$650.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "No payment was made as there was a 'stay' on file for the designated doctor examination and no record of DWC overturning the stay, therefore the examination should not have been completed."

Response Submitted by: TASB Risk Management Fund

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: September 22, 2017, Designated Doctor Examination, \$650.00, \$650.00

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 §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.
3. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
- B7 - This provider was not certified/eligible to be paid for this procedure/service on this date of service.

- Comment: “Denying payment, as provider proceeded with doing this MMI evaluation after DWC cancelled (stayed) this specific evaluation by this provider.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- W3 – Additional payment made on appeal/reconsideration.
- Comment: “02/15/18 Maintaining original denial, DWC stayed evaluation therefore there is no order for exam to be done.”

Issues

1. Are the insurance carrier’s reasons for denial of payment supported?
2. Is the requestor entitled to reimbursement for the designated doctor examination in question?

Findings

1. Donald Gwartney, D.C. is seeking reimbursement for a designated doctor examination performed on September 22, 2017, per Commissioner Order dated August 31, 2017.

TASB Risk Management Fund (TASB) denied the examination due to a stay of examination. A signed order that the designated doctor examination be stayed was not presented in the submitted documentation.

In its position statement, TASB argued that there was “no record of DWC overturning the stay.” However, available documentation finds that TASB entered into an agreement with the injured employee on November 1, 2017, signed by the contested case hearing officer, which accepted the findings of the examination performed by Dr. Gwartney on September 22, 2017.

The Texas Department of Insurance, Division of Workers’ Compensation (DWC) concludes that the insurance carrier did not support its denial reasons.

2. Because the TASB failed to support denial of the examination in question, Dr. Gwartney is eligible for reimbursement. The maximum allowable reimbursement (MAR) for the determination of maximum medical improvement is \$350.00.¹ The MAR for determination of an impairment rating for a musculoskeletal body area is \$150.00 if the DRE method is used and \$300.00 for the first body area if a full physical examination with range of motion is performed.²

The documentation submitted to the division indicates that Dr. Gwartney determined the injured employee’s maximum medical improvement and the impairment rating, performing a full physical examination with range of motion in conjunction with this examination.

The total MAR for the examination in question is \$650.00. This amount 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 \$650.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$650.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

¹ 28 Texas Administrative Code §134.250(3)(C)

² 28 Texas Administrative Code §134.250(4)(C)(ii)

Signature

Laurie Garnes

Medical Fee Dispute Resolution Officer

September 24, 2018

Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with Rule §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

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