



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

RANDI LEE, DC

Respondent Name

TOKIO MARINE AMERICA INSURANCE

MFDR Tracking Number

M4-18-3969-01

Carrier's Austin Representative

Box Number 47

MFDR Date Received

JUNE 12, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Additional testing requested by the Designated Doctor."

Amount in Dispute: \$300.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The specific line item in dispute was billed at \$800.00 and an allowance of \$350.00 was recommended and paid with check number 800513508 on 04/02/2018."

Response Submitted by: Tokio Marine America Insurance

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: February 15, 2018, CPT Code 99456-W5-WP, \$300.00, \$300.00

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 §134.210, effective July 7, 2016, provides the medical fee guideline for division specific services.
3. 28 Texas Administrative Code §134.235, effective July 7, 2016, sets the reimbursement guidelines for return to work and medical care evaluations.
4. 28 Texas Administrative Code §134.240, effective July 7, 2016, sets the reimbursement guidelines for Designated Doctor Examinations.
5. 28 Texas Administrative Code §134.250, effective July 7, 2016, sets the reimbursement guidelines for

Maximum Medical Improvement Evaluations and Impairment Rating Examinations.

6. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
- 309-The charge for this procedure exceeds the fee schedule allowance.
  - P12-Workers' compensation jurisdictional fee schedule adjustment.
  - 4150-An allowance has been paid for a Designated Doctor Examination as outlined in 134.204(J) for attainment of maximum medical improvement. An additional allowance may be payable if a determination of the impairment caused by the compensable injury was also performed.

### Issues

Is the requestor entitled to additional reimbursement for CPT code 99456-W5-WP?

### Findings

On the disputed date of service the requestor billed CPT codes 99456-W5-WP, 99456-W7-RE, and 99456-W8-RE. Only CPT code 99456-W5-WP is in dispute. According to the explanation of benefits, the respondent paid \$350.00 for CPT code 99456-W5-WP based upon the fee guideline.

To determine if the requestor is due additional reimbursement the division refers to the following statute:

- 28 Texas Administrative Code §134.210(b)(2) states, "Modifying circumstance shall be identified by use of the appropriate modifier following the appropriate Level I (CPT codes) and Level II HCPCS codes. Where HCPCS modifiers apply, insurance carriers shall treat them in accordance with Medicare and Texas Medicaid rules. Additionally, division-specific modifiers are identified in subsection (e) of this section. When two or more modifiers are applicable to a single HCPCS code, indicate each modifier on the bill."
- 28 Texas Administrative Code §134.210(e) states, " The following division modifiers shall be used by health care providers billing professional medical services for correct coding, reporting, billing, and reimbursement of the procedure codes:

(5) MI, multiple impairment ratings--This modifier shall be added to CPT code 99455 when the designated doctor is required to complete multiple impairment ratings calculations.

(7) RE, return to work (RTW) and/or evaluation of medical care (EMC)--This modifier shall be added to CPT code 99456 when a RTW or EMC examination is performed.

(18) WP, whole procedure--This modifier shall be added to the CPT code when both the professional and technical components of a procedure are performed by a single health care provider.

(21) W7, designated doctor examination for disability--This modifier shall be added to the appropriate examination code performed by a designated doctor when determining whether the injured employee's disability is a direct result of the work-related injury.

(23) W8, designated doctor examination for return to work--This modifier shall be added to the appropriate examination code performed by a designated doctor when determining the ability of injured employee to return to work."

- 28 Texas Administrative Code §134.240(1)((A-F) states, "The following shall apply to designated doctor examinations. (1) Designated doctors shall perform examinations in accordance with Labor Code §§408.004, 408.0041, and 408.151 and division rules, and shall be billed and reimbursed as follows:

(A) Impairment caused by the compensable injury shall be billed and reimbursed in accordance with §134.250 of this title, and the use of the additional modifier "W5" is the first modifier to be applied when performed by a designated doctor;

(B) Attainment of maximum medical improvement shall be billed and reimbursed in accordance with §134.250 of this title, and the use of the additional modifier "W5" is the first modifier to be applied when performed by a designated doctor;

(C) Extent of the employee's compensable injury shall be billed and reimbursed in accordance with §134.235 of this title, with the use of the additional modifier "W6";

(D) Whether the injured employee's disability is a direct result of the work-related injury shall be billed and reimbursed in accordance with §134.235 of this title, with the use of the additional modifier "W7";

(E) Ability of the employee to return to work shall be billed and reimbursed in accordance with §134.235 of this title, with the use of the additional modifier "W8"; and

(F) Issues similar to those described in subparagraphs (A) - (E) of this paragraph shall be billed and reimbursed in accordance with §134.235 of this title, with the use of the additional modifier "W9."

- 28 Texas Administrative Code §134.240(2)(A-C) states, "When multiple examinations under the same specific division order are performed concurrently under paragraph (1)(C) - (F) of this section:
  - (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in §134.235 of this title;
  - (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in §134.235 of this title; and
  - (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in §134.235 of this title."
- 28 Texas Administrative Code §134.235 states "The following shall apply to return to work (RTW)/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 maximum medical improvement/ impairment rating (MMI/IR) is performed or not, the reimbursement shall be \$500 in accordance with §134.240 of this title 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."
- 28 Texas Administrative Code §134.250(4)(C)(iii) states, "If the examining doctor performs the MMI examination and the IR testing of the musculoskeletal body area(s), the examining doctor shall bill using the appropriate MMI CPT code with modifier 'WP.' Reimbursement shall be 100 percent of the total MAR."
- 28 Texas Administrative Code §134.250(3)(C) states, "The following applies for billing and reimbursement of an MMI evaluation. (C) An examining doctor, other than the treating doctor, shall bill using CPT code 99456. Reimbursement shall be \$350."
- 28 Texas Administrative Code §134.250 (4)(C)(i)(I) states, "For musculoskeletal body areas, the examining doctor may bill for a maximum of three body areas. (i) Musculoskeletal body areas are defined as follows: (I) spine and pelvis."
- 28 Texas Administrative Code §134.250 (4)(C)(ii) states, "The MAR for musculoskeletal body areas shall be as follows:
  - (I) \$150 for each body area if the diagnosis related estimates (DRE) method found in the AMA Guides fourth edition is used.
  - (II) If full physical evaluation, with range of motion, is performed:
    - (-a-) \$300 for the first musculoskeletal body area; and
    - (-b-) \$150 for each additional musculoskeletal body area."

The division finds:

- On the disputed date of service the requestor billed CPT codes 99456-W5-WP, 99456-W7-RE, and 99456-W8-RE.
- The issue in dispute is whether the requestor is due additional reimbursement of \$300.00 for code 99456-W5-WP.
- The requestor billed for the MMI/IR examination in accordance with 28 Texas Administrative Code §134.250.
- A review of the submitted report indicates the requestor examined the claimants cervical spine.

- The requestor's report supports billing CPT code 99456-W5-WP; therefore, reimbursement of \$350.00 for MMI + \$300.00 for IR for a total of \$650.00 is recommended. The respondent paid \$350.00. The requestor is due the difference between MAR and paid of \$300.00.

**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 \$300.00.

***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 \$300.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

**Authorized Signature**

_____	_____	8/30/2018
Signature	Medical Fee Dispute Resolution Officer	Date

***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 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 with the Division. **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.**