



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
LUTHER BRATCHER, DC

Respondent Name
TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number
M4-18-4439-01

Carrier's Austin Representative
Box Number 54

MFDR Date Received
JULY 24, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The claim was denied for procedure code inconsistent with the modifier used or a required modifier is missing. Enclosed is a corrected claim form."

Amount in Dispute: \$350.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The requester, as designated doctor, determined on 11/17/18 the claimant was not at MMI...The requester coded this with 99456-W5,WP...Texas Mutual declined to issue payment absent correct coding. The requester submitted a 'corrective claim' that Texas Mutual received 12/1/17...The correcting coding on the bill was 99456-W5. Again, Texas Mutual declined payment absent correct coding...The cover letter in the DWC60 packet states in part...'Enclosed is a corrected claim form.' The 'corrected claim form' is still incorrect. No payment is due."

Response Submitted By: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Table with 4 columns: Dates of Service, Disputed Services, Amount In Dispute, Amount Due. Row 1: November 17, 2017, CPT Code 99456-W5-NM Designated Doctor Evaluation, \$350.00, \$0.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted 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 §134.240, effective July 7, 2016, sets the reimbursement guidelines for

Designated Doctor Examinations.

4. 28 Texas Administrative Code §134.250, effective July 7, 2016, sets the reimbursement guidelines for Maximum Medical Improvement Evaluations and Impairment Rating Examinations.
5. 28 Texas Administrative Code §133.20 sets out the health care providers billing procedures.
6. 28 Texas Administrative Code §133.250 sets out the medical bill processing and audit by insurance carriers procedures.
7. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - CAC-4-The procedure code is inconsistent with the modifier used or a required modifier is missing.
  - 732-Accurate coding is essential for reimbursement. Modifier billed incorrectly or missing. Services are not reimbursable as billed.
  - CAC-W3, 350-In accordance with TDI-DWC rule 134.804, this bill has been identified as request for reconsideration or appeal.
  - CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - 891-No additional payment after reconsideration.

### **Issues**

1. Is the respondent's denial of payment for code 99456-W5-NM supported?
2. Is code 99456-W5-NM eligible for medical fee dispute resolution in accordance with 28 Texas Administrative Code §133.307?

### **Findings**

1. The requestor is seeking dispute resolution for CPT code 99456-W5-NM in the amount of \$350.00.
2. The respondent wrote "The requester, as designated doctor, determined on 11/17/18 the claimant was not at MMI...The requester coded this with 99456-W5,WP...Texas Mutual declined to issue payment absent correct coding. The requester submitted a 'corrective claim' that Texas Mutual received 12/1/17...The correcting coding on the bill was 99456-W5. Again, Texas Mutual declined payment absent correct coding...The cover letter in the DWC60 packet states in part...'Enclosed is a corrected claim form.' The 'corrected claim form' is still incorrect. No payment is due."
3. The respondent denied reimbursement for codes 99456-W5-WP and 99456-W5 based upon "CAC-4-The procedure code is inconsistent with the modifier used or a required modifier is missing, and 732-Accurate coding is essential for reimbursement. Modifier billed incorrectly or missing. Services are not reimbursable as billed."

To determine if the respondent's denial is supported, 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)(6) 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. (6) NM, not at maximum medical improvement (MMI)--This modifier shall be added to the appropriate MMI CPT code to indicate that the injured employee has not reached MMI when the purpose of the examination was to determine MMI."

28 Texas Administrative Code §134.240(1)(A)(B) states, "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."

28 Texas Administrative Code §134.250(2)(A) states, "If the examining doctor, other than the treating doctor, determines MMI has not been reached, the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this section. Modifier "NM" shall be added."

28 Texas Administrative Code §134.250(3)(C) states, "The following applies for billing and reimbursement of an MMI evaluation. An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350."

The division finds that the requestor did not use the appropriate modifiers to bill for the evaluation as outlined in 28 Texas Administrative Code §134.250(2)(A). The code is 99456-NM.

4. Whether the requestor's medical fee dispute is eligible for review relies upon whether the requestor satisfied the relevant prerequisite requirements as follows:

28 Texas Administrative Code §133.20( f) states" Health care providers shall not resubmit medical bills to insurance carriers after the insurance carrier has taken final action on a complete medical bill and provided an explanation of benefits except in accordance with §133.250 of this chapter (relating to Reconsideration for Payment of Medical Bills)."

28 Texas Administrative Code §133.20(g) states " Health care providers may correct and resubmit as a new bill an incomplete bill that has been returned by the insurance carrier."

28 Texas Administrative Code §133.240(a) states "An insurance carrier shall take final action after conducting bill review on a complete medical bill, or determine to audit the medical bill in accordance with §133.230 of this chapter (relating to Insurance Carrier Audit of a Medical Bill), not later than the 45th day after the date the insurance carrier received a complete medical bill. An insurance carrier's deadline to make or deny payment on a bill is not extended as a result of a pending request for additional documentation."

28 Texas Administrative Code §133.250(d) states "A written request for reconsideration shall: (1) reference the original bill and include the same billing codes, date(s) of service, and dollar amounts as the original bill."

28 Texas Administrative Code §133.250(i) states "If the health care provider is dissatisfied with the insurance carrier's final action on a medical bill after reconsideration, the health care provider may request medical dispute resolution in accordance with the provisions of Chapter 133, Subchapter D of this title (relating to Dispute of Medical Bills)."

A review of the submitted documentation finds no explanation of benefits or request for reconsideration for code 99456-W5-NM. The division finds the requestor did not submit any evidence that code 99456-W5-NM had been presented to the respondent prior to seeking medical dispute resolution. The division finds this code is not eligible for review.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has not established that reimbursement is due.

### ***ORDER***

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

8/27/2018  
\_\_\_\_\_  
Date

## **YOUR RIGHT TO APPEAL**

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