



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

JKB MEDICAL EXAMS

Respondent Name

SOMPO AMERICA INSURANCE CO

MFDR Tracking Number

M4-20-2249-01

Carrier's Austin Representative

Box Number 19

MFDR Date Received

May 13, 2020

REQUESTOR'S POSITION SUMMARY

"We billed \$800.00, for an Impairment rating and MMI, for two body parts, we were paid \$450.00."

Amount in Dispute: \$350.00

RESPONDENT'S POSITION SUMMARY

Submitted documentation does not include a position statement from the respondent. Accordingly, this decision is based on the information available at the time of adjudication.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 31, 2019	Designated Doctor Examination (99456-W5-WP)	\$350.00	\$350.00

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 (DWC).

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. Texas Insurance Code §408.0041 sets out the guidelines for designated doctor examinations.
4. The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - 308 – MMI/IR procedure code 99456 is permitted only once on the same date of service.
 - 50 – These are non-covered services because this is not deemed a medical necessity by the payer.

Issues

1. Did Sampo America Insurance Company respond to the medical fee dispute?
2. Is the examination in question subject to dismissal based on medical necessity?
3. Is the insurance carrier's denial of payment based on coding supported?
4. Is JKB Medical Exams' entitled to additional reimbursement for the examination in question?

Findings

1. The Austin carrier representative for Sampo America Insurance Company is Flahive Ogden & Latson. The representative was notified of this medical fee dispute on May 19, 2020. If the DWC does not receive the response within 14 calendar days of the dispute notification, then the DWC may base its decision on the available information.¹

As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

2. JKB Medical Exams is seeking additional reimbursement for an examination to determine maximum medical improvement (MMI) and impairment rating (IR) ordered by the DWC. Sampo America Insurance Company denied payment based, in part, on medical necessity.

The insurance carrier is required to reimburse designated doctor examinations unless otherwise prohibited by statute, order, or rule.² The insurance carrier submitted no evidence to support that reimbursement for the examination in question was prohibited. The DWC finds that the examination in question is not subject to dismissal based on medical necessity.

3. Sampo America Insurance Company also denied payment for the examination in question stating, "MMI/IR procedure code 99456 is permitted only once on the same date of service."

The examining doctor when designated by the DWC is required to bill an examination to determine MMI with CPT code 99456 and modifier "W5."³ The examining doctor is also required to bill an examination to determine the IR of an injury with CPT code 99456 and modifier "W5."⁴ When the examining doctor performs the MMI examination **and** the IR testing of the musculoskeletal body areas, the doctor is required to include modifier "WP."⁵

Review of the submitted documentation finds that JKB Medical Exams billed the examination in question with the appropriate codes as noted above. Therefore, the DWC finds that the insurance carrier's denial of payment for this reason is not supported.

4. Because the insurance carrier failed to support its denial of payment for the designated doctor examination in question, JKB Medical Exams is entitled to reimbursement for the examination.

The submitted documentation supports that James Bales, M.D. performed an evaluation of maximum medical improvement as ordered by the DWC. The maximum allowable reimbursement (MAR) for this examination is \$350.00.⁶

Review of the submitted documentation finds that Dr. Bales performed impairment rating evaluations of the left upper extremity and left lower extremity with range of motion testing. The MAR for the evaluation of a musculoskeletal body area performed with range of motion is \$300.00.⁷ The MAR for the evaluation of subsequent musculoskeletal body areas is \$150.00 each.⁸ The total MAR for the determination of impairment rating is \$450.00.

¹ 28 TAC §133.307 (d)(1)

² TIC §408.0041 (h)

³ 28 TAC §§134.250 (3)(C) and 134.240 (1)(B)

⁴ 28 TAC §§134.250 (4)(A) and 134.240 (1)(A)

⁵ 28 TAC §134.250 (4)(C)(iii)

⁶ 28 TAC §134.250(3)(C)

⁷ 28 TAC §134.250(4)(C)(ii)(II)(-a-)

⁸ 28 TAC §134.250(4)(C)(ii)(II)(-b-)

The total allowable reimbursement for the examination in question is \$800.00. The insurance carrier paid \$450.00. An additional reimbursement of \$350.00 is recommended.

Conclusion

For the reasons stated above, the DWC finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$350.00.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the DWC has determined the requestor is entitled to additional reimbursement for the disputed services. The DWC hereby ORDERS the respondent to remit to the requestor \$350.00, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____	_____	August 21, 2020
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 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 DWC within **twenty** days of your receipt of this decision. The request may be faxed, mailed, or personally delivered to the DWC 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.