



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Trenton Weeks, D.C.

**Respondent Name**

Accident Fund General Insurance Co.

**MFDR Tracking Number**

M4-24-0923-01

**Carrier's Austin Representative**

Box Number 6

**DWC Date Received**

January 2, 2024

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
February 14, 2023	Examination to Determine Maximum Medical Improvement & Impairment Rating: 99456-WP	\$500.00	\$0.00

### Requestor's Position

"Carrier states services are not medically appropriate or necessary as reason for denied payment. However, this claimant had completed treatment and had reached maximum medical improvement. The treating doctor made an appropriate referral for an MMI examination for purposes of assignment of an Impairment rating as it is medically necessary when claimant reaches MMI.

"This evaluation and report does not in any way constitute treatment of the injured worker and is not subject to preauthorization requirements in accordance with Labor Code §413.014."

**Amount in Dispute:** \$500.00

## Respondent's Position

"Labor Code section 408.0041(f-2) provides that an employee required to be examined by a Designated Doctor to address MMI/IR may request a medical examination from the treating doctor or another doctor to whom the employee is referred by the treating doctor if: (1) the *Designated Doctor's opinion is the first evaluation* of MMI/IR and (2) the employee is not satisfied with the Designated Doctor's opinion.

"In this case, the Designated Doctor's opinion was not the first evaluation of MMI/IR. The first such evaluation was by Irma Aguirre, M.D., who examined Claimant at the request of the treating doctor on 12/10/20 ... The second evaluation of MMI/IR was by Designated Doctor Kristie Gaddis, D.C. on 10/24/22 ... Dr. Weeks' evaluation of MMI/IR was on 02/14/23 and it was the *third* such evaluation. It also was the *second* one requested by the treating doctor.

"Since Claimant was examined by Dr. Aguirre *before* the Designated Doctor exam, he was not entitled to have another examination *after* the Designated Doctor exam."

**Response Submitted by:** Stone Loughlin Swanson

## Findings and Decision

### Authority

This medical fee dispute is decided according to [Texas Labor Code \(TLC\) §413.031](#) and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

### Statutes and Rules

1. [28 Texas Administrative Code \(TAC\) §133.240](#) sets out the procedures for payment or denial of a medical bill.
2. [28 TAC §133.305](#) sets out the procedures for resolving medical disputes.
3. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
4. [28 TAC, Chapter 19](#) sets out the requirements for utilization review.
5. [TLC §408.0041](#) sets out the requirements for a designated doctor examination.

### Denial Reasons

The insurance carrier denied the payment for the disputed services with the following claim adjustment codes:

- 960 – Services not medically appropriate or necessary
- @G(W3) – No additional reimbursement allowed after review of appeal/reconsideration.
- 4169 – Workers' Compensation Claim adjudicated as non-compensable
- 5088 – Provider not authorized

- 5089 – Service(s) not authorized
- 5098 – This billing is for a service unrelated to the work injury/illness.
- 5180 – Bill denied as the injury is not work related
- 5347 – Services are unreasonable and unnecessary
- TX P12 – Workers’ compensation jurisdictional fee schedule adjustment.
- TX W3 – The Benefit for this Service is included in the payment/allowance for another service/procedure that has been performed on the same day.

Issues

1. Is this dispute subject to dismissal based on compensability or relatedness?
2. Is Trenton Weeks, D.C. entitled to reimbursement for an examination to determine maximum medical improvement and impairment rating

Findings

1. Dr. Weeks is seeking reimbursement for an examination to determine maximum medical improvement and impairment rating as referred by the treating doctor. The insurance carrier denied payment, in part, stating, “Workers’ Compensation Claim adjudicated as Non-Compensable” and “This billing is for a service unrelated to the work injury/illness.”

28 TAC §§133.305(b) and 133.307(c)(1)(B)(i) state that a dispute regarding compensability or relatedness must be resolved prior to a request for medical fee dispute.

Per 28 TAC §133.307(d)(2)(H), the respondent is required to attach a copy of any related Plain Language Notice (PLN) if the medical fee dispute involves compensability issues.

Review of the submitted documentation finds that Stone Loughlin Swanson failed to attach a copy of a related PLN on behalf of Accident Fund General Insurance Co. to support a denial based on compensability, extent of injury and/or liability issues.

The DWC finds that this dispute is not subject to dismissal as the denial reason was not supported.

2. The insurance carrier also denied payment stating, “Service(s) not authorized.”

TLC §408.0041(f-2) allows an injured employee that is not satisfied with the designated doctor's opinion to request an examination for MMI and IR from the treating doctor or a doctor referred by the treating doctor if the designated doctor's opinion is the employee's first evaluation.

Evidence submitted to the DWC indicates that Irma Aguirre, M.D. performed an examination to determine MMI and IR on December 10, 2020, placing the injured employee at MMI. The designated doctor performed an examination to determine MMI and IR on October 24, 2022, placing the injured employee at MMI.

Because the designated doctor examination is not the first evaluation of MMI and IR, the insurance carrier’s denial is supported. The DWC finds that Dr. Weeks is not entitled to

reimbursement for the examination in question.

### Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requestor has not established that reimbursement is due.

### **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
March 1, 2024

Date

### **Your Right to Appeal**

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the instructions on the form. You can find the form at [www.tdi.texas.gov/forms/form20numeric.html](http://www.tdi.texas.gov/forms/form20numeric.html). DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, please call CompConnection at 1-800-252-7031, option three or email [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).

The party seeking review of the MFDR decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** with any other required information listed in [28 TAC §141.1 \(d\)](#).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, opción tres o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).