



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Trenton D. Weeks, D.C.

**Respondent Name**

Vanliner Insurance Co.

**MFDR Tracking Number**

M4-24-0925-01

**Carrier's Austin Representative**

Box Number 06

**DWC Date Received**

January 2, 2024

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
January 4, 2023	Examination to Determine Maximum Medical Improvement – 99456-NM	\$350.00	\$350.00

### Requestor's Position

"This evaluation and report do not in any way constitute treatment of the injured worker and is not subject to preauthorization requirements in accordance with Labor Code §413.014 and is subject to reimbursement with 28 Texas Administrative Code §134.204 (j)(2).

"DWC-TWCC affords the injured employees' assignment of MMI and Impairment by certified doctor. My certification and authorization to evaluate and certify MMI and IR remains current, active and has not been revoked or suspended at any time ...

"An MMI evaluation was performed and It was determined that the above named claimant had not reached clinical maximum medical improvement. The MMI portion of this examination was billed for \$350.00 using appropriate CPT Code 99456 and modifier NM ...

"This examination and report in no way constitutes treatment and was referred by the treating doctor as indicated in the DWC-69."

**Amount in Dispute:** \$350.00

## Respondent's Position

"The injured employee was evaluated by Designated Doctor William Meiser, D.O. on 06/23/22. Dr. Meiser certified on such date that the injured employer had not reached MMI but was expected to do so on or about 07/31/22.

"Requestor, Dr. Weeks, performed an MMI/IR evaluation as a doctor selected by the treating doctor on 09/28/22. In his report dated 10/04/22, Dr. Weeks determined that the injured employee had not reached MMI but was expected to do so on or about 12/28/22. Dr. Weeks requested and was paid the sum of \$350.00 for such examination ...

"Dr. Weeks performed a second MMI/IR evaluation as a doctor selected by the treating doctor on 01/04/23. In his report dated 01/13/23, Dr. Weeks again determined that the injured employee had not reached MMI but was now expected to do so on or about 04/04/23. Dr. Weeks again requested payment of the sum of \$350.00 for such 01/04/23 examination, which request is the basis of the captioned Request for Medical Fee Dispute Resolution.

"Carrier stands by the reasons for denial of payment set forth in its Explanation of Benefits previously filed in this dispute."

**Response Submitted by:** Stone Loughlin & Swanson, LLP

## 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 \(TAC\) §130.1](#) sets out the procedures for certification of maximum medical improvement and impairment rating.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §134.250](#) sets out the fee guidelines for examinations to determine maximum medical improvement.
4. [TLC §408.122](#) sets out the requirements for eligibility for impairment income benefits.

## Denial Reasons

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

- P5 – Based on payer reasonable and customary fees. No maximum allowable defined by legislated fee arrangement. To be used for Property and Casualty only.
- Notes – “Claimant has already had an MMI exam. No authorization was requested for repeat MMI/IR Exam.”

## Issues

1. Is the insurance carrier’s denial reason supported?
2. Is Trenton D. Weeks, D.C. entitled to reimbursement for the examination in question?

## Findings

1. Dr. Weeks is seeking reimbursement for an examination to determine maximum medical improvement and impairment rating performed January 4, 2023. Vanliner Insurance Co. denied the examination stating, “Claimant has already had an MMI exam. No authorization was requested for repeat MMI/IR Exam.”

Per 28 TAC §130.1(a)(1)(A)(i) states that “the treating doctor (or a doctor to whom the treating doctor has referred the injured employee for evaluation of MMI and/or permanent whole body impairment in the place of the treating doctor...)” is authorized to “certify maximum medical improvement (MMI), determine whether there is permanent impairment, and assign an impairment rating if there is permanent impairment.”

TLC §408.122 states, in relevant part, “A claimant may not recover impairment income benefits unless evidence of impairment based on an objective clinical or laboratory finding exists.”

The insurance carrier provided no evidence that the injured employee had been certified at MMI with an impairment rating or that Dr. Weeks was not authorized in accordance with 28 TAC §130.1. The DWC finds that the insurance carrier’s denial is not supported.

2. The submitted documentation supports that Dr. Weeks performed an evaluation of maximum medical improvement (MMI). Dr. Weeks found that the injured employee was not at MMI. 28 TAC §134.250(3)(C) states that the maximum allowable reimbursement for this examination is \$350.00. Because the injured employee was found not to be at MMI, no impairment rating was determined.

The DWC recommends a reimbursement of \$350.00 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 established that reimbursement of \$350.00 is due.

## **Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed services. It is ordered that Vanliner Insurance Co. must remit to Trenton D. Weeks, D.C. \$350.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

## **Authorized Signature**

_____	_____	April 5, 2024
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 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).