

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Linda Gregory, D.O.

Respondent Name

XL Insurance America, Inc.

MFDR Tracking Number

M4-24-1058-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

January 16, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 18, 2023	Designated Doctor Examination 99456-W5-WP	\$300.00	\$300.00
	Designated Doctor Examination 99456-W5-MI	\$0.00	\$0.00
	Designated Doctor Examination 99456-W6-RE	\$0.00	\$0.00
Total		\$300.00	\$300.00

Requestor's Position

"The following bill was audited and paid incorrectly. TDI-DWC addresses Maximum Medical Improvement (MMI) Evaluations with Rule 134.250 (3) (C). This rule states to reimburse the examining doctor, other than the treating doctor \$350.00 for MMI evaluations. TDI-DWC addresses Impairment Rating (IR) Evaluations with Rule 134.250 (4). This rule states if a full physical evaluation, with range of motion, is performed, reimbursement for the first musculoskeletal body area is \$300.00 and each additional musculoskeletal body area is \$150.00."

Amount in Dispute: \$300.00

Respondent's Position

The Austin carrier representative for XL Insurance America Insurance, Inc. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on January 23, 2024. Per 28 Texas Administrative Code §133.307 (d)(1), if 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. As of today, no response has been received from the insurance carrier or its representative. We will base this decision on the information available.

Findings and Decision

Authority

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

Statutes and Rules

1. [28 Texas Administrative Code \(TAC\) §133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 TAC §134.235](#) sets out the fee guidelines for examinations to determine extent of injury, return to work, and disability.
3. [28 TAC §134.250](#) sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.
4. [28 TAC §134.240](#) sets out medical fee guidelines for designated doctor examinations.
5. [Texas Labor Code \(TLC\) §408.0041](#) sets out provisions of Designated Doctor examinations under the Texas Workers' Compensation Act.

Adjustment Reasons

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

- 5205 – Cannot review bill without medical notes for date(s) of service. Please submit medical notes with the bill to expedite processing.
- 226 – Information requested from the billing/rendering provider was not provided or not provided timely or was insufficient/incomplete.

Issues

1. Which services are in dispute?
2. What rules apply to the services in dispute?
3. Is the requestor entitled to additional reimbursement?

Findings

1. On the disputed date of service, the requestor billed CPT codes as follows for a total charge in the amount of \$1,550.00 for designated doctor examination services rendered on March 18, 2023:
 - 99456-W5-WP x 3 units for charges in the amount of \$950.00
 - 99456 W5-MI x 2 units for charges in the amount of \$100.00
 - 99456-W6-RE x 1 unit for a charge of \$500.00

The requestor indicated on the DWC060 Medical Fee Dispute Resolution (MFDR) request form, that the insurance carrier paid a total amount of \$1,250.00 for services rendered on the disputed date. Per the DWC060 form, the only line of service in dispute is CPT code 99456-W5-WP which was reimbursed \$650.00 out of the \$950.00 charged for that line of service.

DWC finds that the only service in dispute is 99456-W5-WP x 3 units and therefore only this line of service will be reviewed and adjudicated for MFDR.

2. This medical fee dispute involves an examination by a designated doctor for the purpose of establishing: if maximum medical improvement (MMI) has been reached; what date MMI was reached if applicable; to provide impairment ratings (IR) if MMI has been reached; to address the extent of the employee's compensable injury and ability to return to work.

DWC finds that 28 TAC §134.250 which sets out the fee guidelines for maximum medical improvement examinations and impairment ratings, applies to the billing and reimbursement of the services in dispute and states in pertinent part, "(3) 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. (4) The following applies for billing and reimbursement of an IR evaluation.

(A) The health care provider shall include billing components of the IR evaluation with the applicable MMI evaluation CPT code. The number of body areas rated shall be indicated in the unit's column of the billing form.

(B) When multiple IRs are required as a component of a designated doctor examination under this title, the designated doctor shall bill for the number of body areas rated and be reimbursed \$50 for each additional IR calculation. Modifier "MI" shall be added to the MMI evaluation CPT code.

(C) 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;
- (II) upper extremities and hands; and
- (III) lower extremities (including feet).

(ii) The maximum allowable reimbursement (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.

(iii) 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...

(D) Non-musculoskeletal body areas shall be billed and reimbursed using the appropriate CPT code(s) for the test(s) required for the assignment of IR.

(i) Non-musculoskeletal body areas are defined as follows:

(I) body systems;

(II) body structures (including skin); and

(III) mental and behavioral disorders...

(v) The MAR for the assignment of an IR in a non-musculoskeletal body area shall be \$150."

3. The requestor is seeking additional reimbursement in the amount of \$300.00 for an examination by a designated doctor to determine maximum medical improvement and impairment rating.

CPT code 99456 indicates the service of a maximum medical improvement (MMI) and/or impairment rating (IR) examination by a doctor other than the treating doctor. Modifier W5 indicates the examination was performed by a designated doctor. Modifier WP indicates that the same examining doctor performed the MMI examination and the IR testing of the musculoskeletal body area(s), thus reimbursement shall be 100 percent of the total maximum allowable reimbursement (MAR).

The submitted documentation supports that the requestor, a designated doctor, performed an evaluation of maximum medical improvement as ordered by DWC. Per 28 TAC §134.250 (3)(C) the maximum allowable reimbursement (MAR) for this examination is \$350.00.

A review of the submitted documentation finds that Dr. Gregory performed an impairment rating evaluation of the right lower extremity with range of motion testing. The rule at 28 TAC §134.250 (4)(C)(ii) defines the fees for the calculation of an impairment rating for musculoskeletal body areas. The MAR for the evaluation of the first musculoskeletal body area performed with range of motion is \$300.00.

Additionally, the submitted medical records support that Dr. Gregory performed impairment rating evaluations of two non-musculoskeletal body areas, the skin, and the face structure. 28 TAC §134.250(4)(D) defines the fees for the calculation of an impairment rating for non-musculoskeletal body areas. The MAR for the assignment of impairment rating for non-musculoskeletal body areas is \$150.00 each.

Examination 99456-W5-WP March 18, 2023	AMA Chapter	\$134.250 Category	Reimbursement Amount
MMI			\$350.00
IR: (redacted) + ROM	Musculoskeletal System	Lower Extremity	\$300.00
IR: (redacted)	Ear, Nose, Throat, and related structures	Non-musculoskeletal Body Structure	\$150.00
IR: (redacted)	(redacted)	Non-musculoskeletal Body structure	\$150.00
MAR			\$950.00

DWC finds that the total allowable reimbursement for the disputed service is \$950.00. Per the requestor's DWC060 MFDR request form, the insurance carrier paid \$650.00. Therefore, DWC finds that the requestor is entitled to additional reimbursement in the amount of \$300.00 for the disputed CPT code 99456-W5-WP x 3 units rendered on March 18, 2023.

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 additional reimbursement in the amount of \$300.00 is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that XL Insurance America Inc. must remit to Linda Gregory, D.O. \$300.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

April 25, 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. 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 3 or email 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 3 o correo electrónico CompConnection@tdi.texas.gov.