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Division of Workers' Compensation

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Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Daniel Lee Brown, D.C.

Respondent Name

Starr Indemnity & Liability Co.

MFDR Tracking Number

M4-24-1085-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

January 17, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 18, 2023	Designated Doctor Examination 99456-W5-WP	\$650.00	\$650.00
	Designated Doctor Examination 99456-W5-MI	\$50.00	\$0.00
	Designated Doctor Examination 99456-W6-RE	\$500.00	\$500.00
	Designated Doctor Examination 99456-W8-RE	\$250.00	\$250.00
Total		\$1,450.00	\$1,400.00

Requestor's Position

"AN ORIGINAL BILL AND A RECONSIDERATION WERE SUBMITTED; THE CURRENT RULES ALLOW REIMBURSEMENT."

Amount in Dispute: \$1,450.00

Respondent's Position

The Austin carrier representative for Starr Indemnity & Liability Co. 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 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.

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 \(TLC\) §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, reduction, or denial of a medical bill.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §134.235](#) sets out the fee guidelines for examinations to determine the extent of the compensable injury and ability to return to work.
4. [28 TAC §134.240](#) sets out the fee guidelines for designated doctor examinations.
5. [28 TAC §134.250](#) sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.

Denial Reasons

Neither party submitted an explanation of benefits with reasons for the denial of payment for the disputed services.

Issues

1. Did Starr Indemnity & Liability Co. take final action on the bill for the disputed service before medical fee dispute resolution was requested?
2. Is Daniel Lee Brown, D.C. entitled to reimbursement for the services in question?

Findings

1. Dr. Brown is seeking reimbursement for a designated doctor examination to determine maximum medical improvement (MMI), impairment rating, extent of the compensable injury, and ability to return to work. Dr. Brown argued that he did not receive payment or an explanation of denial for medical bills submitted for the examination in question.

Per 28 TAC §133.240(a), the insurance carrier is required to take final action by paying, reducing, or denying the service in question not later than 45 days after receiving the medical bill. This deadline is not extended by a request for additional information.

The greater weight of evidence presented to DWC supports that a complete bill for the services in question was received by the insurance carrier or its agent. No evidence was provided to support that the insurance carrier took final action on the bill for the service in question.

2. Because the insurance carrier failed to provide a defense for non-payment of the services in question, Dr. Brown is entitled to reimbursement.

The submitted documentation supports the claim that Dr. Brown performed an evaluation of MMI as ordered by the DWC. 28 TAC §134.250(3)(C) states that the maximum allowable reimbursement (MAR) for this examination is \$350.00.

Review of the submitted documentation finds that Dr. Brown performed impairment rating evaluations of the lumbar spine with range of motion testing. 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.

The submitted documentation indicates that Dr. Brown was asked to address MMI, impairment rating, and extent of injury. When multiple impairment ratings are required as a component of a designated doctor examination, 28 TAC §134.250(4)(B) states that the designated doctor shall be reimbursed \$50.00 for each additional impairment rating calculation.

Documentation indicates that Dr. Brown provided an impairment rating for one assessment of MMI. He found that the injured employee was not at MMI for a second assessment, so no impairment calculations were provided for that assessment. Therefore, a charge for an additional impairment calculation was not supported. DWC does not recommend additional reimbursement for this charge.

The submitted documentation indicates that Dr. Brown performed examinations to determine the extent of the compensable injury and the injured employee's ability to return to work. According to 28 TAC §134.235, the MAR for such examinations is \$500.00.

28 TAC §134.240(2) also states that, not including maximum medical improvement and impairment rating, when multiple examinations of this type are required, the first examination is reimbursed at 100% of MAR. The second examination is reimbursed at 50%.

For this dispute, the MAR for the examination to determine the extent of the compensable injury is \$500.00. The examination to determine the ability to return to work is \$250.00.

The total allowable reimbursement for the services in question is \$1,400.00. This amount is recommended.

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 \$1,400.00 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 Starr Indemnity & Liability Co. must remit to Daniel Brown, D.C. \$1,400.00 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 16, 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 three 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 tres o correo electrónico CompConnection@tdi.texas.gov.