



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

JOHN D KIRKWOOD, DO

**Respondent Name**

ZURICH AMERICAN INSURANCE CO

**MFDR Tracking Number**

M4-24-1292-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

February 13, 2024

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
November 30, 2023	Designated Doctor Examination 99456-W5-WP x 2 units	\$100.00	\$100.00
<b>Total</b>		\$100.00	\$100.0

### Requestor's Position

"On November 30, 2023, Dr John Kirkwood D.O. performed a MMI & Impairment Examination on the above referenced injured employee. The total amount billed was \$800.00, which was for:

\$800.00 Breakdown for CPT Code 99456, Modifier WP/W5 x 2 Units

- \$350 MMI/IR – Maximum Medical Improvement & IR – Impairment Rating
- \$300 ROM - Range of Motion – (redacted)
- \$150 DRE – Diagnosis Related Estimate – (redacted)...

We submitted an invoice for \$800.00 for the evaluation on the above referenced injured worker for a date of service November 30, 2023. We have received a partial payment in the amount of \$700.00, leaving a balance of \$100.00."

**Amount in Dispute: \$100.00**

## Respondent's Position

The Austin carrier representative for Zurich American Insurance is Flahive Ogden & Latson. The representative was notified of this medical fee dispute on February 21, 2024.

Per 28 TAC §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 at the time of the review.

## 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 [§134.250](#) sets out the medical guidelines for medical services, charges, and payments for maximum medical improvement evaluations and impairment rating examinations.

### Denial Reasons

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

- 309 – The charge for this procedure exceeds the fee schedule allowance
- 4150 – An allowance has been paid for a designated doctor examination as outlined in 134.204(j) for attainment for maximum medical improvement. An additional allowance is payable if a determination of the impairment cause by the compensable injury was also performed
- TXP12 – Workers' compensation jurisdictional fee schedule adjustment
- TXW3 – Bill is a reconsideration or appeal
- 2005 – No additional reimbursement allowed after review of appeal/reconsideration
- 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted

### Issues

1. Is John Kirkwood, DO entitled to additional reimbursement for the disputed date of service?

Findings

- 1. A review of the submitted documentation finds that Dr. Kirkwood performed maximum medical improvement and impairment rating evaluation of the (redacted) with range of motion and laceration.

The submitted documentation supports that Dr. Kirkwood performed an evaluation of maximum medical improvement (MMI). 28 TAC §134.250(3)(C) states that the maximum allowable reimbursement (MAR) for this examination is \$350.00.

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.

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.

The total MAR for the disputed services is \$800.00. Per the explanation of benefits dated December 15, 2023, the insurance carrier paid \$700.00. Therefore, an additional amount of \$100.00 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 additional reimbursement of \$100.00 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 ZURICH AMERICAN INSURANCE CO must remit to JOHN D KIRKWOOD \$100.00 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 26, 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, call CompConnection at 1-800-252-7031, option 3 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 3 o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).