

Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Jan Petrasek, M.D.

Respondent Name

Zurich American Insurance Co.

MFDR Tracking Number

M4-24-2081-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

May 28, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 26, 2023	Designated Doctor Examination 99456-W5-WP	\$300.00	\$300.00
	Designated Doctor Examination 99456-W8	\$0.00	\$0.00
	Designated Doctor Examination 99080	\$0.00	\$0.00
Total		\$300.00	\$300.00

Requestor's Position

"The DWC order is for MMI/IR and Return to Work. MMI/IR was performed for one body area with range of motion performed as part of the examination. The correct CPT code and modifier of 99456-W5-WP was billed for a total of \$650.00. The carrier reduced this part of the claim incorrectly and only paid for the MMI portion of this CPT code. The carrier did not reimburse for the impairment rating for one body area with range of motion for this CPT code which is an additional \$300.00 for the first body area with range of motion."

Amount in Dispute: \$300.00

Respondent's Position

The Austin carrier representative for Zurich American Insurance Co. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on June 4, 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:

- 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 134.240 FOR ATTAINMENT OF MAXIMUM MEDICAL IMPROVEMENT. AN ADDITIONAL IS PAYABLE IF A DETERMINATION OF THE IMPAIRMENT CAUSED BY THE COMPENSABLE INJURY WAS ALSO PERFORMED.
- TXP12 – WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
- W3 - BILL IS A RECONSIDERATION OR APPEAL.
- 193 - ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVIEW, IT WAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.

- 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.
- 2005 - NO ADDITIONAL REIMBURSEMENT ALLOWED AFTER REVIEW OF APPEAL/RECONSIDERATION.

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 the following CPT codes totaling \$1,165.00 for designated doctor examination services rendered on October 26, 2023:
 - 99456-W5-WP for charges in the amount of \$650.00
 - 99456 W8 for charges in the amount of \$500.00
 - 99080 for a charge of \$15.00

The requestor indicated on the DWC060 Medical Fee Dispute Resolution (MFDR) request form, that the insurance carrier paid a total amount of \$850.00 for services rendered on the disputed date. The explanation of benefits (EOB) document submitted confirms that the insurance carrier reimbursed a total amount of \$850.00 for the services in dispute. Per the DWC060 form, the only line of service in dispute is CPT code 99456-W5-WP which was reimbursed \$350.00 out of the \$650.00 charged for that line of service.

DWC finds that the only service in dispute is 99456-W5-WP for an additional amount of \$300.00.

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; and to address the employee's 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."

28 TAC §134.235, which applies to the billing and reimbursement of some of the services rendered on the disputed date, states, "The following shall apply to return to work (RTW)/evaluation of medical care (EMC) examinations. When conducting a division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT code 99456 with modifier 'RE.' In either instance of whether maximum medical improvement/ impairment rating (MMI/IR) is performed or not, the reimbursement shall be \$500..."

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 the requestor, a designated doctor, also performed an impairment rating evaluation of one musculoskeletal body area 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 documentation supports that the requestor performed an evaluation to determine the ability of the injured worker to return to work. The MAR for the first evaluation of this type is \$500.00 in accordance with 28 TAC §134.235 and 28 TAC §134.240.

Appropriate reimbursement, in accordance with the applicable 28 Texas Administrative Code rules, for the designated doctor examination rendered on October 26, 2023, by Dr. Petrasek, is as follows:

Examination 99456-W5-WP 99456-W8 October 26, 2023	AMA Chapter	§134.250 Category	Reimbursement Amount
MMI			\$350.00
IR: Spine + ROM	Musculoskeletal System	Spine	\$300.00
Return to Work			\$500.00
Total MAR			\$1,150.00

DWC finds that the total allowable reimbursement for the disputed service is \$1,150.00. Per the requestor’s DWC060 MFDR request form and the submitted EOB, the insurance carrier paid \$850.00. 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 rendered on October 26, 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 Zurich American Insurance Co. must remit to Jan Petrasek, M.D. \$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

July 31, 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.