TDI Division of Workers' Compensation
PO Box 12050 | Austin, TX 78711 | 800-252-7031 | tdi.texas.gov/wc

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

General Information

Requestor Name
Neal Talbott, M.D.

Respondent Name
Indemnity Insurance Co. of North America

MFDR Tracking Number
M4-24-2118-01

Carrier's Austin Representative
Box Number 15

DWC Date Received
June 1, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 5, 2023	Designated Doctor Examination 99456-W5-WP	$600.00	$600.00
June 5, 2023	Designated Doctor Examination 99456-SP	$50.00	$50.00
	Total	$650.00	$650.00

Requestor's Position

"The insurance carrier has not properly paid this claim… We received reimbursement for the MMI portion of the claim, however, the impairment rating was not paid. For this claim the provider performed impairment rating for 3 body areas including range of motion. This was billed in combination with MMI for a total of $1000.00 ($350.00 for MMI, $300.00 for the first body area with range of motion and $150.00 for each of the two other body areas). Additionally, the doctor incorporated a specialist report into the Designated Doctor report so an additional $50.00 was also billed correctly with modifier SP."
Amount in Dispute: $650.00

Respondent's Position

The Austin carrier representative for Indemnity Insurance Co. of north America is Downs Stanford, PC. The representative was notified of this medical fee dispute on June 11, 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 §134.250 sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.

Adjustment Reasons

- W3 - BILL IS A RECONSIDERATION OR APPEAL.
- 193 - ORIGINAL PAYMENT DECISION IS BEING MAINTAINED. UPON REVJEW, ITWAS DETERMINED THAT THIS CLAIM WAS PROCESSED PROPERLY.
- 1003 - IN RESPONSE TO YOUR APPEAL OF OUR PREVIOUS RE-EVALUATION, NO SIGNIFICANT ADDITIONAL DOCUMENTATION OR INFORMATION REGARDING THIS CLAIM HAS BEEN RECEIVED. OUR POSITION REMAINS UNCHANGED ON THE SAME QUESTIONS THAT WERE PREVIOUSLY POSED BY THE PROVIDER. THEREFORE, NO ADDITIONAL ALLOWANCE IS RECOMMENDED.
- 2005 - NO ADDITIONAL REIMBURSEMENT ALLOWED AFTER REVIEW OF APPEAL/RECONSIDERATION.

Issues

1. What rules apply to the service in dispute?
2. Is the requestor entitled to additional reimbursement?

Findings

1. 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; and to provide impairment ratings (IR) if MMI has been reached.

   On the disputed date of service, the requestor billed $1,000.00 for three units of CPT code 99456-W5-WP and one unit of 99456-SP. 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 modifier "SP"

indicates that the examining doctor incorporated one or more specialists' information into the final IR assignment.

DWC finds that 28 TAC §134.250 applies to the reimbursement of the service in dispute. 28 TAC §134.250, which sets out the fee guidelines for maximum medical improvement examinations and impairment ratings, 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… (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…

(iii) When the examining doctor refers testing for non-musculoskeletal body area(s) to a specialist, then the following shall apply:

(I) The examining doctor (e.g., the referring doctor) shall bill using the appropriate MMI CPT code with modifier 'SP' and indicate one unit in the unit's column of the billing form. Reimbursement shall be $50 for incorporating one or more specialists' report(s) information into the final assignment of IR. This reimbursement shall be allowed only once per examination."

2. The requestor, Neal Talbott, M.D. is seeking additional reimbursement in the amount of $650.00 for a designated doctor examination rendered on June 5, 2023.

A review of the medical bills and medical record submitted finds that the requestor's charges for the services rendered on June 5, 2023, are in accordance with 28 TAC §134.250, which sets out the fee guidelines for examinations to determine maximum medical improvement and

impairment rating.

A review of the submitted medical record supports that Dr. Talbott performed an evaluation of maximum medical improvement (MMI) 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 medical record additionally finds that the requestor performed an impairment rating (IR) evaluation of two musculoskeletal body areas, with range of motion. 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. The MAR for the evaluation of subsequent musculoskeletal body areas is $150.00 each. The requestor assigned an impairment rating utilizing range of motion for two musculoskeletal body areas. The total allowable reimbursement for the impairment rating of the two musculoskeletal body areas for this dispute is $450.00.

The submitted medical record further supports that Dr. Talbott performed an IR evaluation of one non-musculoskeletal body area utilizing the AMA Guides to the Evaluation of Permanent Impairment, fourth edition. The reimbursement for this evaluation is $150.00 in accordance with 28 TAC §134.250 (4)(C).

Per the submitted documentation, Dr. Talbott referred the injured worker to a specialist for non-musculoskeletal testing and examination and incorporated that information into the final assignment of the impairment rating. In accordance with 28 TAC §134.250 (D), the requestor shall be reimbursed in the amount of $50.00 for this portion of the IR evaluation.

In accordance with 28 TAC §134.250, the reimbursements which apply to the disputed examination rendered on June 5, 2023, are:

- For an MMI examination, reimbursement is $350.00.
- For an IR of the first musculoskeletal body area with range of motion, reimbursement is $300.00.
- For an IR of the second musculoskeletal body area with range of motion, reimbursement is $150.00.
- For an IR of a non-musculoskeletal body area reimbursement is $150.00.
- For the service of incorporating a specialist's report information into the final IR, the reimbursement is $50.00.
- DWC finds that the total maximum allowable reimbursement for the examination in question is $1,000.00.
- The insurance carrier paid $350.00 per documentation submitted.
- Additional reimbursement in the amount of $650.00 is recommended.

DWC finds that additional reimbursement in the amount of $650.00 is due for the services in dispute.

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 $650.00 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 Indemnity Insurance Co. of North America must remit to Neal Talbott, M.D. $650.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

		August 1, 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. 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 electronico CompConnection@tdi.texas.gov.