



## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### General Information

**Requestor Name**

Aaron Levine, M.D.

**Respondent Name**

Safety National Casualty Corp

**MFDR Tracking Number**

M4-24-2161-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

June 6, 2024

### Summary of Findings

| Dates of Service  | Disputed Services                            | Amount in Dispute | Amount Due |
|-------------------|--|-------------------|------------|
| November 16, 2023 | Designated Doctor Examination<br>99456-W5-WP | \$150.00          | \$150.00   |
| November 16, 2023 | 99456-W6-RE                                  | \$0.00            | \$0.00     |
|                   | <b>Total:</b>                                | \$150.00          | \$150.00   |

### Requestor's Position

"CARRIER IS REQUIRED TO PAY DESIGNATED DOCTOR EXAMS... THE CURRENT RULES ALLOW REIMBURSEMENT."

**Amount in Dispute:** \$150.00

### Respondent's Position

The Austin carrier representative for Safety National Casualty Corp. is Flahive, Ogden & Latson. 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 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

- P12 – WORKERS' COMPENSATION JURISDICTIONAL FEE SCHEDULE ADJUSTMENT.
- 790 – THIS CHARGE WAS REIMBURSED IN ACCORDANCE TO THE TEXAS MEDICAL FEE GUIDELINE.
- P13 - PAYMENT REDUCED OR DENIED BASED ON WORKERS' COMPENSATION JURISDICTIONAL REGULATIONS OR PAYMENT POLICIES.
- D10 – TIME LIMIT FOR FILING HAS EXPIRED.
- 18 - EXACT DUPLICATE CLAIM/SERVICE.
- 224 - DUPLICATE CHARGE.

### Issues

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

### Findings

1. On the disputed date of service, the requestor rendered and billed for a designated doctor examination under CPT codes 99456-W5-WP and 99456-W6-RE. A review of the DWC060, Request for Medical Fee Dispute Resolution (MFDR) form, and of the submitted explanation of benefits (EOB) document, finds that the insurance carrier paid the full charge for CPT code 99456-W6-RE. The requestor indicates on the DWC060 form that the amount in dispute for CPT code 99456-W6-RE is \$0.00 and that the amount in dispute for CPT code 99456-W5-WP is \$150.00. DWC finds that the only service in dispute is CPT code 99456-W5-WP in the amount of \$150.00, therefore, this is the only service that will be reviewed in this 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; and to provide impairment ratings (IR) if MMI has been reached.

On the disputed date of service, the requestor billed \$800.00 for CPT code 99456-W5-WP. 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).

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..."

3. The requestor, Aaron Levine, M.D., is seeking additional reimbursement in the amount of \$150.00 for a designated doctor examination rendered on November 16, 2023.

A review of the medical bills and medical record submitted finds that the requestor's charges for the services rendered on November 16, 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.

The submitted medical record supports that Dr. Levine, a designated doctor, 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 one musculoskeletal body area, 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 one musculoskeletal body area. The total allowable reimbursement for the impairment rating of one musculoskeletal body area utilizing range of motion is \$300.00

The submitted medical record supports that the requestor also performed an IR examination of one non-musculoskeletal body area/body system. In accordance with 28 TAC §134.250 (D), the reimbursement for an IR examination of one non-musculoskeletal body area is \$150.00.

In accordance with 28 TAC §134.250, the reimbursements which apply to the disputed examination rendered on November 16, 2023, are:

- For an MMI examination, reimbursement is \$350.00.
- For an IR examination of one musculoskeletal body area with range of motion, reimbursement is \$300.00.
- For an IR examination of one non-musculoskeletal body area, reimbursement is \$150.00.
- DWC finds that the total maximum allowable reimbursement for the examination in question billed under CPT code 99456-W5-WP is \$800.00.
- Per the EOB submitted, the insurance carrier paid \$650.00 for CPT code 99456-W5-WP rendered on November 16, 2023.
- Additional reimbursement in the amount of \$150.00 is recommended.

DWC finds that additional reimbursement in the amount of \$150.00 is due for the service 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 \$150.00 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 Safety National Casualty Corp. must remit to Aaron Levine, M.D. \$150.00 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

\_\_\_\_\_  
August 8, 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, please 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).