



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Andrew Garcia, D.C.

Respondent Name

Kiewit Corp.

MFDR Tracking Number

M4-24-2265-01

Carrier's Austin Representative

Box Number 12

DWC Date Received

June 13, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
March 22, 2024	Designated Doctor Examination 99456-W5-WP-MI	\$700.00	\$650.00

Requestor's Position

"The item in dispute is the charge for \$1,178.00 (CPT 99456 W5WPMI). The total amount allowed on this charge was \$50.00 which is far less that what should have been allowed. The additional allowable amount to be considered according to the Workers' Compensation Jurisdictional Fee schedule is \$700.00 which is the total minimum amount allowable for the services rendered. This charge represents the fee for the Maximum Medical Improvement evaluation (\$350.00), the Impairment Rating evaluation for one extremity ... (\$300.00) and the charge for multiple certifications (2) (\$50.00 each and two additional certifications were provided) as requested by TDI ... The recommended total allowance on the EOB dated 4/9/2024 shows \$50.00 which is not in accordance with the Workers Compensation Jurisdictional Fee Schedule Allowance."

Amount in Dispute: \$700.00

Respondent's Position

"Requestor performed a designated doctor examination to determine maximum medical improvement (MMI), impairment rating (IR), and extent of injury. Although Respondent states in his request for medical dispute resolution that he was only paid \$50 for the disputed services, Self-Insured issued \$550 in reimbursement for this date of service ...

In this case, Requestor was asked to evaluate: (1) MMI/IR, and (2) extent of injury to one (1) 'Body Area/Diagnosis,' i.e., 'Upper Extremity' ... As part of his evaluation of these issues, Requestor issued a determination on extent of injury to the disputed ... condition as well as MMI/IR ...

Respondent believes that the Requestor has already received proper reimbursement for the disputed services in accordance with Rule 134.204 and stands by the reasons for denial listed in the Explanation of Benefits at Exhibit A and attached to Requestor's request for medical fee dispute resolution."

Response Submitted by: Shanley Price, LLP

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 \(TAC\) §127.10](#) sets out the procedures for designated doctor examinations.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §134.240, July 7, 2016, 41 TexReg 4839](#) sets out the fee guidelines for designated doctor examinations.
4. [28 TAC §134.250, effective July 7, 2016, 41 TexReg 4839](#) sets out the fee guidelines for examinations to determine maximum medical improvement with dates of service prior to June 1, 2024.

Denial Reasons

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

- 309 – The charge for this procedure exceeds the fee schedule allowance.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.
- N600 – Adjusted based on the applicable fee schedule for the region in which the

service was rendered.

- 247 – A payment or denial has already been recommended for this service.
- 18 – Exact duplicate claim/service.
- N111 – No appeal right except duplicate claim/service issue. This service was included in a claim that has been previously billed and adjudicated.

Issues

1. What are the services considered in this dispute?
2. Is Andrew Garcia, D.C. entitled to additional reimbursement?

Findings

1. Dr. Garcia is seeking additional reimbursement for a designated doctor examination to determine maximum medical improvement (MMI), impairment rating (IR) with multiple impairment calculations, and the extent of the compensable injury. The insurance carrier stated, "Self-Insured issued \$550 in reimbursement for this date of service."

Explanations of benefits submitted to DWC indicate that the insurance carrier paid \$500.00 for the determination of the extent of the compensable injury as represented by procedure code 99456-W6-RE. Dr. Garcia is not seeking reimbursement for this service. Therefore, this service is not considered in this dispute.

DWC will consider the additional reimbursement request for the determination of MMI and IR with multiple impairments as represented by procedure code 99456-W5-WP-MI.

2. According to 28 TAC §§134.250(3)(C) and 134.240(1)(B), the designated doctor is required to bill an examination to determine MMI using CPT code 99456 with modifier "W5." The submitted documentation supports that Dr. Garcia performed an evaluation of MMI as ordered by DWC. 28 TAC §134.250(3)(C) states that the maximum allowable reimbursement (MAR) for this examination is \$350.00.

When the designated calculates an impairment rating, 28 TAC §§134.250(4)(A) and 134.240(1)(A) require the doctor to bill using CPT code 99456 with modifier "W5." When the examining doctor also performs the testing for impairment rating of musculoskeletal body areas, 28 TAC §134.250(4)(C)(iii) requires the examining doctor to add modifier "WP." Review of the submitted documentation finds that Dr. Garcia performed an impairment rating evaluation of the left upper extremity 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. Garcia provided one additional impairment rating. Per 28 TAC §127.10(d) states, in relevant part, "For examinations conducted under this subsection on or after June 5, 2023, the designated doctor may provide multiple certifications of MMI and impairment ratings only when directed by the division." DWC finds that Dr. Garcia was ordered to provide multiple impairment calculations for the examination

in question.

According to 28 TAC §134.250(4)(B), when multiple impairment ratings are required as a component of a designated doctor examination, the doctor shall be reimbursed \$50.00 for each additional impairment rating calculation and modifier "MI" shall be added to the MMI evaluation CPT code. The submitted documentation indicates that Dr. Garcia provided one additional impairment rating. Therefore, Dr. Garcia is entitled to \$50.00 for this service.

DWC concludes that the total allowable reimbursement for the services in question is \$700.00. The submitted explanations of benefits indicate that the insurance carrier paid \$50.00. Therefore, an additional reimbursement of \$650.00 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 \$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 Kiewit Corp. must remit to Andrew Garcia, D.C. \$650.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

Authorized Signature

_____	_____	July 30, 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 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.