



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Trenton D. Weeks, D.C.

Respondent Name

Norguard Insurance Co.

MFDR Tracking Number

M4-24-2557-01

Carrier's Austin Representative

Box Number 12

DWC Date Received

July 21, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
September 12, 2023	Examination to Determine Disability 99456	\$500.00	\$0.00

Requestor's Position

"I performed this examination at the request of the injured employee and the treating doctor ...

- Adjuster is vague concerning the 'activity that is a benefit exclusion' which resulted in a work injury.
- This evaluation and report do not in any way constitute treatment of the injured worker and is not subject to preauthorization requirements ...
- DWC-TWCC affords the injured employees' assignment of DWC specific services including Disability by certified doctor. My certification and authorization to evaluate and certify MMI and IR, Extent of Injury, Return to Work, and Disability remains current, active and has not been revoked or suspended at any time ...

"This evaluation addresses compensable body part(s) and not specific diagnosis. When performing an this examination, the injured body part is what is examined, not a specific diagnosis. This is an examination to determine disability related to the work injury which is only relevant to the musculoskeletal area/part. Whether or not the carrier is disputing the severity of

the injury and/or what treatment should coincide, my purpose as an examining doctor is to determine Disability, if any, relating to the body parts that were injured.”

Amount in Dispute: \$500.00

Respondent's Position

The Austin carrier representative for Norguard Insurance Co. is Shanley Price, LLP. The representative was notified of this medical fee dispute on July 31, 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 \(TLC\) §413.031](#) and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Statutes and Rules

1. [28 Texas Administrative Code \(TAC\) §126.17](#) sets out the procedures for examinations by a referral doctor to address disability.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §134.235, effective July 7, 2016, 41 TexReg 4839](#) sets out the fee guidelines for examinations to determine disability.

Denial Reasons

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

- 160 – Injury/illness was the result of an activity that is a benefit exclusion.
- 197 – Precertification/authorization/notification absent.
- D06 – The medical provider/treatment was unauthorized.
- D12 – Treatment was not causally related to the work injury
- D13 – The medical coding is not related to the accepted diagnosis and/or treatment for this claim.

Issues

1. Is this dispute subject to dismissal based on extent of injury or relatedness?
2. Is Trenton D. Weeks, D.C. entitled to reimbursement for the examination in question?

Findings

1. Dr. Weeks is seeking reimbursement for an examination to determine if the compensable injury caused disability.

The insurance carrier denied payment, in part, based on the extent of the injury or relatedness to the compensable injury. 28 TAC §§133.305(b) and 133.307(c)(1)(B)(i) state that a dispute regarding extent of or relatedness to the injury must be resolved prior to a request for medical fee dispute.

Review of the submitted documentation finds that Shanley Price, LLP failed to attach a copy of a related PLN on behalf of Norguard Insurance Co. to support a denial based on extent of or relatedness to the compensable injury.

This dispute is not subject to dismissal as the denial reason was not supported.

2. The authority for a treating or referral doctor to perform an examination to determine whether disability is related to the compensable injury is limited to the conditions outlined in 28 TAC §126.17:
 - (a) An examination by the injured employee's treating doctor or another doctor to whom the injured employee is referred by the treating doctor to determine any issue other than certification of maximum medical improvement and the evaluation of permanent impairment may be appropriate after a designated doctor examination if:
 - (1) the designated doctor issued an opinion on the issue;
 - (2) the injured employee is not satisfied with the designated doctor's opinion; and
 - (3) the treating doctor or the referral doctor has not already provided the injured employee with a written report that meets the standard described by subsection (b) of this section on the issue addressed by the designated doctor.

DWC finds no evidence that the examination in question was performed after a designated doctor issued an opinion on this issue. DWC, therefore, finds that Dr. Weeks is not entitled to reimbursement for this examination.

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 not established that reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

Signature

Medical Fee Dispute Resolution Officer

October 29, 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 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.