



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

Edward W. Smith, D.O.

Respondent Name

Protective Insurance Co.

MFDR Tracking Number

M4-25-0242-01

Carrier's Austin Representative

Box Number 17

DWC Date Received

September 26, 2024

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 11, 2024	Designated Doctor Examination 99456-W5-25	\$749.00	\$749.00
	Designated Doctor Examination 99456-W5-WP	\$0.00	\$0.00
	Designated Doctor Examination 99456-W6-RE	\$0.00	\$0.00
Total		\$749.00	\$749.00

Requestor's Position

"Carrier partially reimbursed DD for services and improperly declined to pay for all services requested, ordered, and provided according to DWC Rules 28 TAC Chapter 134 ... A Reconsideration Request was submitted on 7/30/2024 ... NO EOB RECEIVED ...

"All submitted charges and coding conform to DWC Rules 28 TAC Chapter 134. The original claim form was properly coded and submitted in a timely fashion to the carrier.

"Summary of services provided for the examination:

Service	Fee (see note)	TAC Rule(s)
MMI determination (complex exam): modifiers W5-25	\$449 + \$300 = \$749	134.240(d)(3) 134.240(g)
Impairment rating: three body areas rated; at least one was MSK	\$385 + (\$192 * 2 = \$769	134.240(d)(4)(A)(ii) 134.240(d)(4)(B)(iii)
EOI (Extent of Injury): modifier W6	\$642	134.240(d)(5)

Amount in Dispute: \$749.00

Respondent's Position

"Effective with DOS 6/1/2024 and later, the DWC has updated billing and payment rules for DD exams ... one line is billed for determining MMI with modifier W5 (99456-W5). An additional line is required for billing the specialty exam fee (99456-25) ... The requestor also appears to be billing for the Specialty Exam fee but the body areas and conditions defined do not appear to be applicable. There was no Traumatic Brain Injury (no concussion, post concussion syndrome) to which the Specialty Exam fee would be applicable. The diagnosis provided indicates (redacted)."

Response Submitted by: CorVel

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 \(TAC\) §127.130, effective April 30, 2023, 48 TexReg 2123](#), 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, effective June 1, 2024, 49 TexReg 1489](#), sets out the fee guidelines for designated doctor examinations.

Denial Reasons

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

- 16 – Svc lacks info needed or has billing error(s)
- 4 – Procedure code inconsistent with modifier used
- Notes: "Additionally, (redacted) is not a traumatic brain injury (a specialty area)."
- Notes: "DOCUMENTATION SUBMITTED STATES THAT IT WAS A (REDACTED)."

- Notes: "1) Per DWC rule, when billing for Specialty Area only modifier 25 is billed with 99456. 2) If billing for determining MMI portion of exam, a separate entry is needed for 99456-W5. See rule 134.210."

Issues

1. What services are considered in this dispute?
2. Is Protective Insurance Co.'s denial of payment supported?
3. Is Edward W. Smith, D.O. entitled to additional reimbursement for the services in question?

Findings

1. Dr. Smith is seeking additional reimbursement for a designated doctor examination to determine maximum medical improvement, impairment rating, and the extent of the compensable injury, with board certification required.
Dr. Smith is seeking \$0.00 for determination of an impairment rating and the extent of the compensable injury. Therefore, these services will not be considered in this dispute. DWC will review the denial of payment for the finding of maximum medical improvement and an additional fee for the board certification requirement.
2. The insurance carrier denied the examination in question, in part, stating, "a (redacted) is not a traumatic brain injury (a specialty area)," and "DOCUMENTATION SUBMITTED STATES THAT IT WAS A (REDACTED)." In its position statement the insurance carrier argued that "there was no Traumatic Brain Injury (no concussion, post concussion syndrome) to which the Specialty Exam fee would be applicable."
In review of the submitted documentation, DWC finds that the designated doctor was ordered to address the extent of the compensable injury. Based on the *Request for designated doctor examination* (DWC032), the disputed conditions included (redacted).
Per 28 TAC §127.130(b) states, in relevant part, "A designated doctor is qualified to perform a designated doctor examination on an injured employee if the designated doctor meets the appropriate qualification standard for the area of the body affected by the injury and the injured employee's diagnosis and has no disqualifying associations under §127.140 of this title (relating to Disqualifying Associations). A designated doctor's qualification standards are as follows: ...

(9) Notwithstanding paragraphs (1) - (8) of this subsection, a designated doctor must be a licensed medical doctor or doctor of osteopathy with the required board certification to examine any of the following diagnoses ...

(B) To examine traumatic brain injuries, including concussion and post-concussion syndrome, a designated doctor must be board-certified by the ABMS or AOABOS ...

(ii) Qualifying AOABOS certifications are: ...

(V) orthopedic surgery;

Because the designated doctor was required to examine the injured employee for a (redacted) to determine if the diagnosis was part of the compensable injury, the examination required a doctor certified in accordance with 28 TAC §127.130(b)(9)(B). Therefore, the insurance carrier's denial reason is not supported.

3. Because the insurance carrier failed to support its denial of payment for the services in question, DWC finds that Dr. Smith is entitled to reimbursement.

Per 28 TAC §134.240(d), "When conducting a designated doctor examination, the designated doctor must bill, and the insurance carrier must reimburse, using CPT code 99456 and with the modifiers and rates specified in subsections (d)(1) - (7)."

28 TAC §134.240(d)(3) states, in relevant part, "MMI evaluations will be reimbursed at \$449 adjusted per §134.210(b)(4), and the designated doctor must apply the additional modifier 'W5.'" No adjustments found in 28 TAC §134.210(b)(4) apply for the date of service in question.

The doctor certified that the injured employee was at MMI. Therefore, the total allowable reimbursement for this examination is \$449.00.

28 TAC §134.240(g) states, in relevant part, "When the division orders the designated doctor to perform an examination of an injured employee with one or more of the diagnoses listed in §127.130(b)(9)(B) - (I) of this title:

- (1) The designated doctor must add modifier "25" to the appropriate examination code ...
- (3) The designated doctor must bill, and the insurance carrier must reimburse, \$300 adjusted per §134.210(b)(4) in addition to the examination fee.

DWC finds that the total allowable reimbursement for the examination in question is \$749.00. This amount 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 \$749.00 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 Protective Insurance Co. must remit to Edward W. Smith, D.O. \$749.00 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

February 7, 2025

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.