



Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name

John Anthony Sklar, MD

Respondent Name

Mitsui Sumitomo Insurance Co of America

MFDR Tracking Number

M4-25-1265-01

Carrier's Austin Representative

Box Number 19

DWC Date Received

February 7, 2025

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
May 13, 2024	99456 W5 WP	\$1,100.00	\$1,100.00
May 13, 2024	99456 W5 SP	\$50.00	\$50.00
Total		\$1,150.00	\$1,150.00

Requestor's Position

"Please accept the following Position Statement as required by Rule 133.307 (C)(2)(f).
...DESIGNATED DOCTOR EXAM ...CARRIERS IS REQUIRED TO PAY DESIGNATED DOCTOR EXAMS
...THE CURRENT RULES ALLOW REIMBURSEMENT ...AN ORIGINAL BILL AND A
RECONSIDERATION WERE SUBMITTED, THE CURRENT RULES ALLOW REIMBURSEMENT."

Amount in Dispute: \$1,150.00

Respondent's Position

The Austin carrier representative for Mitsui Sumitomo Insurance Co of America is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on February 19, 2025.

Per 28 Texas Administrative Code §133.307(d)(1), if the 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](#) (adopted July 7, 2016, 41 TexReg 4839) sets out the fee guidelines for examinations to determine maximum medical improvement and impairment rating.
3. [28 TAC §134.210](#) sets out the medical fee guideline for workers' compensation specific services.

Adjustment Reasons

Neither party submitted explanations of benefits in support of this claim being adjudicated.

Issues

1. Did the requestor support claim submission?
2. Did the insurance carrier support claim adjudicated within required timeframe?
3. What codes and modifiers were submitted on the medical bill?
4. What rules apply to the service in dispute?
5. Is the requestor entitled to additional reimbursement?

Findings

1. The information submitted indicates this claim was submitted to Mitsui Sumitomo Marine Management. Review of the Commissioners order for the designated doctor exam indicates the workers' compensation carrier is Mitsui Sumitomo Insurance Co of America. DWC Rule §133.210 (e) states "It is the insurance carrier's obligation to furnish its agents with any documentation necessary for the resolution of a medical bill. The Division considers any medical billing information or documentation possessed by one entity to be simultaneously possessed by the other. The greater weight of evidence known to the division supports the claim was submitted to Mitsui Sumitomo Marine Management.

2. Dr. Sklar is seeking reimbursement for Designated Doctor Examination on May 13, 2024. The requestor argued that it did not receive payment or an explanation of benefits for medical bills submitted for the services in question. DWC Rule 28 TAC §133.240(a) the insurance carrier is required to take final action by paying, reducing, or denying the service in question not later than 45 days after receiving the medical bill. This deadline is not extended by a request for additional information. No evidence was provided to support that the insurance carrier took final action on the bill for the service in question. The disputed medical bill will be reviewed by the applicable fee guideline shown below.
3. The requestor submitted a medical bill for date of service May 13, 2024 for a designated doctor exam, maximum medical improvement/impairment ratings. No evidence of adjudication was submitted to the respondent nor was a position statement submitted.

This medical fee dispute involves a DWC ordered 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 \$1100.00 for CPT code 99456-W5-WP with four units of service and 99456 W5 SP \$50.00 for one unit. DWC Rule §134.250 (3)(C) states, "An examining doctor, other than the treating doctor, shall bill using CPT code 99456. Reimbursement shall be \$350."

DWC Rule §134.210 (e)(18)(20) states in pertinent parts, "Modifier W5 - designated doctor examination for impairment or attainment of MMI--This modifier shall be added to the appropriate examination code performed by a designated doctor when determining impairment caused by the compensable injury and in attainment of MMI..

Modifier WP whole procedure - This modifier shall be added to the CPT code when both the professional and technical components of a procedure are performed by a single health care provider..

DWC Rule §134.250 (D)(iii)(I) states, "When the examining doctor refers testing for non-musculoskeletal body area(s) to a specialist, then the following shall apply: 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 units 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."

4. DWC finds that 28 TAC §134.250(adopted July 7, 2016, 41 TexReg 4839) (C) sets out the fee guidelines for maximum medical improvement examinations and impairment ratings and states in pertinent parts, 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 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.

The submitted medical record supports that Dr. Sklar, a designated doctor, performed an evaluation of maximum medical improvement (MMI) as ordered by DWC. The submitted medical record also indicates that Dr. Sklar performed an impairment rating (IR) evaluation of one musculoskeletal body area, with range of motion, one other musculoskeletal body area and two non-musculoskeletal impairment ratings.

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 report from Dr Sklar indicates the following musculoskeletal areas were assigned an impairment ratings to right shoulder (with range of motion), spine, head (non-musculoskeletal), and ribs (non-musculoskeletal)

In accordance with 28 TAC §134.250, the reimbursements which apply to the disputed examination rendered on May 13, 2024, are:

- For an MMI examination, reimbursement is \$350.00.
- For an IR of a musculoskeletal body area with range of motion, reimbursement is \$300.00.
- For an IR of a second musculoskeletal body area, reimbursement is \$150.00.
- For an IR of head (neuropsychological), reimbursement is \$150.00
- For an IR of ribs, reimbursement is \$150.00
- For use of testing by a referred specialist, reimbursement is \$50.00
- DWC finds that the total maximum allowable reimbursement for the examination in question is \$1,150.00.

5. DWC finds that reimbursement in the amount of \$1,150.00 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 reimbursement in the amount of \$1,150.00 is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to reimbursement for the disputed services. It is ordered that Mitsui Sumitomo Insurance Co of America must remit to John Anthony Sklar \$1,150.00 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

May 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.