TDI Division of Workers' Compensation
PO Box 12050 | Austin, TX 78711 | 800-252-7031 | tdi.texas.gov/wc

Medical Fee Dispute Resolution Findings and Decision

General Information

Requester Name
James Bales, M.D.

Respondent Name
Everest National Insurance Co.

MFDR Tracking Number
M4-25-1545-01

Carrier's Austin Representative
Box Number 19

DWC Date Received
March 11, 2025

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
October 31, 2024	Designated Doctor Examination 99456-W5	$1,026.00	$1,026.00
	Designated Doctor Examination 99456-W8	$642.00	$642.00
	Designated Doctor Examination 99456-25	$300.00	$300.00
	Total	$1,968.00	$1,968.00

Requester's Position

"**On 10/31/2024, Dr. James Bales performed a Texas Department of Insurance Division of Workers' Compensation ordered Designated Doctor Exam. Dr. Bales was asked to determine MMI/IR and Return to Work** ...

"We billed a total of $1968.00 for this claim but were paid $0. The explanation given on the EOB justifying the denial states: This provider was not certified or eligible to be paid for this service. The reduction of parts of this claim is in violation of the rules of the Texas Department Insurance [sic] Division of Workers' Compensation as the service was ordered on the DWC-32."

Amount in Dispute: $1,968.00

Respondent's Position

The Austin carrier representative for Everest National Insurance Co. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on March 18, 2025.

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) §127.100 sets out the requirements for designated doctor certification.
2. 28 TAC §127.130 sets out the qualification standards for designated doctor examinations.
3. 28 TAC §130.1 sets out the requirements for authorization to perform examinations to determine maximum medical improvement and impairment rating.
4. 28 TAC §133.20 sets out the procedures for submitting a medical bill.
5. 28 TAC §133.307 sets out the procedures for resolving medical fee disputes.
6. 28 TAC §134.210 sets out the fee guidelines for workers' compensation specific services.
7. 28 TAC §134.240 sets out the fee guidelines for designated doctor examinations.

Denial Reasons

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

- 247-1 – Deductible for Professional service rendered in an institutional setting and billed on an institutional claim.
- B13-1 (90202) – Previously paid. Payment for this claim/service may have been provided in a previous payment.
- B7-1 (5065) – This provider was not certified/eligible to be paid for this procedure/service on this date of service.
- 00663-1 – Reimbursement has been calculated based on the state guidelines.

- 93 – No Claim level Adjustments.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.
- 29-1 (90096) – The time limit for filing has expired.
- 4271 – Per TX Labor Code Sec. 408.027, providers must submit bills to payors within 95 days of the date of service.

Issues

1. Is the insurance carrier's denial based on timely filing supported?

2. Is the insurance carrier's denial based on certification supported?

3. Is James Bales, M.D. entitled to reimbursement for the services in question?

Findings

1. Dr. Bales is seeking reimbursement for a designated doctor examination performed on October 31, 2024 to determine maximum medical improvement (MMI), impairment rating (IR), and ability to return to work. The insurance carrier denied payment, in part, stating "THE TIME LIMIT FOR FILING HAS EXPIRED."

   Per 28 TAC §133.20(b), "Except as provided in Labor Code §408.0272(b), (c), or (d), a health care provider must not submit a medical bill later than the 95th day after the date the services are provided."

   The requester submitted an explanation of benefits dated December 10, 2024, for the services in question. This document states that the insurance carrier received the bill on November 8, 2024.

   DWC concludes that the requester submitted its medical bill for the services in question less than 95 days from the date of service. The denial based on timely filing is not supported.

2. The insurance carrier also denied payment stating, "THIS PROVIDER WAS NOT CERTIFIED/ELIGIBLE TO BE PAID FOR THIS PROCEDURE/SERVICE ON THIS DATE OF SERVICE."

   28 TAC §127.100(a) states, in relevant part, "Qualifications to get or renew certification. The division will not assign examinations to a designated doctor who does not meet all requirements for certification or renewal."

   28 TAC §130.1(a)(1) states, "Only an authorized doctor may certify maximum medical improvement (MMI), determine whether there is permanent impairment, and assign an impairment rating if there is permanent impairment." Subsection (A)(ii) further indicates that a doctor acting as a designated doctor is authorized to perform such examinations.

   DWC finds that Dr. Bales was most recently certified to perform designated doctor examinations from October 12, 2023, through October 12, 2025. On September 13, 2024, DWC ordered Dr. Bales to perform the designated doctor exam in question. Therefore, the requester was certified and authorized to perform the disputed examination on the date of service in question.

The request for the designated doctor examination indicated that the exam would include a review of a traumatic brain injury. Per 28 TAC §127.130(b)(9)(B), to "examine traumatic brain injuries, including concussion and post-concussion syndrome, a designated doctor must be board-certified by the ABMS or AOABOS." The list of qualifying certifications includes certification in orthopaedic surgery. Based on information available to DWC, Dr. Bales has this certification.

DWC finds that denial of payment based on certification is not supported.

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

   28 TAC §134.240(d) states, in relevant part, "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).

   (1) The total maximum allowable reimbursement (MAR) for a maximum medical improvement (MMI) or impairment rating (IR) examination is equal to the MMI evaluation reimbursement plus the reimbursement for the body area or areas evaluated for the assignment of an IR …

   (2) A designated doctor must only bill and be reimbursed for an MMI or IR examination if they are an authorized doctor in accordance with the Labor Code and Chapter 130 and §180.23 of this title …

   (C) If the designated doctor determines MMI has been reached and an IR evaluation is performed, both the MMI evaluation and the IR evaluation portions of the examination must be billed and reimbursed in accordance with subsection (d) of this section.

   (3) MMI. MMI evaluations will be reimbursed at $449 adjusted per §134.210(b)(4), and the designated doctor must apply the additional modifier 'W5.'

   (4) IR. For IR examinations, the designated doctor must bill, and the insurance carrier must reimburse, the components of the IR evaluation. The designated doctor must apply the additional modifier 'W5.' Indicate the number of body areas rated in the units column of the billing form.

   (A) For musculoskeletal body areas, the designated doctor may bill for a maximum of three body areas.

   (i) Musculoskeletal body areas are:

   (I) spine and pelvis …

   (ii) For musculoskeletal body areas:

   (I) the reimbursement for the first musculoskeletal body area is $385 adjusted per §134.210(b)(4) …

(B) For non-musculoskeletal body areas, the designated doctor must bill, and the insurance carrier must reimburse, for each non-musculoskeletal body area examined.

(i) Non-musculoskeletal body areas are defined as follows:

(I) body systems …

(ii) For a complete list of body system and body structure non-musculoskeletal body areas, refer to the appropriate AMA Guides.

(iii) The reimbursement for the assignment of an IR in a non-musculoskeletal body area is $192 adjusted per §134.210(b)(4) …"

28 TAC §134.210(b)(4) states, in relevant part, "Fees established in §§134.235, 134.240, 134.250, and 134.260 of this title will be:

(A) adjusted once by applying the Medicare Economic Index (MEI) percentage adjustment factor for the period 2009 - 2024.

(B) adjusted annually by applying the MEI percentage adjustment factor identified in §134.203(c)(2).

(C) rounded to whole dollars by dropping amounts under 50 cents and increasing amounts from 50 to 99 cents to the next dollar…

(D) effective on January 1 of each new calendar year.

DWC finds that the documentation presented indicates that Dr. Bales determined that the injured employee was at MMI and provided an impairment rating that included the spine and nervous system. Therefore, the reimbursement for this portion of the examination is $1,026.00. No adjustments per 28 TAC §134.210(b)(4) apply.

28 TAC §134.240(d)(7) states, "Return to work. The reimbursement rate for determining the ability of the injured employee to return to work is $642 adjusted per §134.210(b)(4), and the designated doctor must apply the additional modifier 'W8.'"

DWC finds that the documentation presented indicates that Dr. Bales made a determination of the injured employee's ability to return to work. Therefore, the reimbursement for this portion of the examination is $642.00. No adjustments per 28 TAC §134.210(b)(4) apply.

28 TAC §134.240(g) states, "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.

Because this examination required a board-certified physician and Dr. Bales had the appropriate certification, he is entitled to reimbursement of $300.00 in accordance with 28 TAC §134.240(g). No adjustments per 28 TAC §134.210(b)(4) apply.

DWC finds that the total allowable reimbursement for the examination in question is $1,968.00. 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 reimbursement of $1,968.00 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 Everest National Insurance Co. must remit to James Bales, M.D. $1,968.00 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	June 27, 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 electronico CompConnection@tdi.texas.gov.