



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Kelly D Clenney DC

**Respondent Name**

Everest National Insurance Co

**MFDR Tracking Number**

M4-25-1611-01

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

March 15, 2025

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
December 10, 2024	Designated Doctor Examination 99456 W5	\$834.00	\$834.00
December 10, 2024	99456 W6	\$642.00	\$642.00
December 10, 2024	99456 W5 MI	\$128.00	\$64.00
Total		\$1,604.00	\$1,540.00

### Requestor's Position

The requestor did not submit a position statement with this request for MFDR. A response dated April 29, 2025 submitted via email states, "Yes, I would like to continue the dispute... The insurance company has denied the claim more than twice and has not made payment."

**Amount in Dispute:** \$1,604.00

### 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 25, 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 \(TLC\) §413.031](#) and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

### Statutes and Rules

1. [28 Texas Administrative Code \(TAC\) §134.240](#) sets out the billing requirements and reimbursement guidelines for designated doctor examinations.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §134.204](#) sets out the medical reimbursement policies.
4. [Texas Labor Code §408.0041](#) details designated doctor examinations.

### Denial Reasons

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

- 193/90563 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 5920 – Fee Schedule manually priced at billed charge.
- 5263 – Additional allowance is not recommended as this bill was reviewed in accordance with state guidelines, usual and customary policies, provider's contract, or carrier decision.
- 93 – No claim level adjustments.
- P12 – Workers' compensation jurisdictional fee schedule adjustment.
- B13-2 – Previously paid. Payment for this claim/service may have been provided in previous payment.

### Issues

1. Did the insurance carrier support adjudication of the disputed charges?
2. What rule is applicable to reimbursement of 99456 W5?
3. What rule is applicable to 99456 W5 MI?
4. What rule is applicable to reimbursement of 994556 [sic] W6?
5. Is the requester entitled to additional reimbursement?

## Findings

1. Dr Clenney is seeking reimbursement for a DWC ordered designated doctor medical examination, to determine maximum medical improvement, impairment rating and extent of injury for date of service December 10, 2024. The explanation of benefits from Gallagher Bassett dated February 17, 2025, denied the charges with multiple denial reasons as indicated above. The insurance carrier did not submit a position statement in response to the request for MFDR. The denial of the claim is therefore not supported.

Additionally, the submitted "Presiding officer's directive to order designated doctor exam" indicates a network or health care plan: Coventry Workers' Comp Network.

DWC Rule 28 Texas Administrative Code (TAC) §134.1, effective March 1, 2008, 33 TexReg 364, states,

(b) Medical reimbursement for health care services provided to injured employees subject to a workers' compensation health care network established under Insurance Code Chapter 1305 shall be made in accordance with the provisions of Insurance Code Chapter 1305, except as provided in subsections (c) and (d) of this section.

(c) Examinations conducted pursuant to Labor Code §§408.004, 408.004, and 408.151 shall be reimbursed in accordance with §134.204...

Texas Labor Code §408.0041, effective September 1, 2007, provides the authority of the Commissioner of the Division of Workers' Compensation to order a designated doctor examination. Further, subsection (h) of this statute states, "The insurance carrier shall pay for: (1) an examination required under Subsection (a)."

Review of the submitted documentation finds that the requestor was ordered to perform the designated doctor examination in question "HRG-04-TM Directive to Order DD", October 21, 2024. Therefore, the disputed services were provided pursuant to Texas Labor Code §408.0041 (a). The service in dispute will be reviewed by the applicable fee guidelines.

2. The submitted medical bill contained the following.

- 99456 W5, 1-unit, billed amount \$834.00

DWC Rule 28 TAC §134.240 (d) states, "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."

DWC Rule 28 TAC §134.240 (d)(3) states "MMI evaluations will be reimbursed at \$449 adjusted per §134.210(b)(4), and the designated doctor must apply the additional modifier "W5."

DWC Rule 28 TAC §134.240 (d) (4) (A) states, "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) upper extremities and hands; and
- (III) lower extremities (including feet).

(ii) For musculoskeletal body areas:

- (I) the reimbursement for the first musculoskeletal body area is \$385 adjusted per §134.210(b)(4); and
- (II) the reimbursement for each additional musculoskeletal body area is \$192 adjusted per §134.210(b)(4).

The total MAR for 99456 W5 is  $\$449 + \$385 = \$834.00$

3. The submitted medical bill contained the following.

- 99456 W5, MI, 2 units. Billed amount \$128.00

DWC Rule 28 TAC §134.240 (d)(4)(D)(E) states,

(D) When multiple IRs are required as a component of a designated doctor examination under this title, the designated doctor must bill for the number of body areas rated, and the insurance carrier must reimburse, \$64 adjusted per §134.210(b)(4) for each additional IR calculation.

(E) When the division requires the designated doctor to complete multiple IR calculations, the designated doctor must apply the additional modifier "MI."

Review of the information known to the Division finds that Dr. Clenney submitted an additional DWC 69 form after the division ordered exam. Therefore, the allowed amount for submitted charges is \$64.

4. The submitted medical bill contained the following.

- 99456 W6, 1-unit, billed amount \$642.00

DWC Rule 28 TAC §134.240 (d)(5) states, "Extent of injury. The reimbursement rate for determining the extent of the employee's compensable injury is \$642 adjusted per §134.210(b)(4), and the designated doctor must apply the additional modifier "W6."

5. The total MAR for the disputed impairment rating is \$834 for the MMI and impairment rating of one musculoskeletal body area, \$642 for the extent of injury and \$64.00 for one additional certification of impairment rating. The total MAR is \$1,540.00. 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 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 Dr. Kelly D Clenney, \$1,540.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

## **Authorized Signature**

_____	Medical Fee Dispute Resolution Officer	June 6, 2025
Signature		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](http://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](mailto: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](mailto:CompConnection@tdi.texas.gov).