



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requester Name**

Keith Louden, M.D.

**Respondent Name**

XL Insurance America, Inc.

**MFDR Tracking Number**

M4-25-1731

**Carrier's Austin Representative**

Box Number 19

**DWC Date Received**

April 1, 2025

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 21, 2024	Designated Doctor Examination 99456-W5	\$1,410.00	\$1,410.00
	Designated Doctor Examination 99456-W5-25	\$300.00	\$300.00
<b>Total</b>		<b>\$1,710.00</b>	<b>\$1,710.00</b>

### Requester's Position

"AN ORIGINAL BILL AND A RECONSIDERATION WERE SUBMITTED; THE CURRENT RULES ALLOW REIMBURSEMENT."

**Amount in Dispute:** \$1,710.00

### Respondent's Position

The Austin carrier representative for XL Insurance America, Inc. is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on April 8, 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 \(TAC\) §133.240](#) sets out the procedures for payment or denial of a medical bill.
2. [28 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
3. [28 TAC §134.240](#) sets out the fee guidelines for designated doctor examinations.

### Denial Reasons

Neither party submitted an explanation of benefits with reasons for the denial of payment for the disputed services.

### Issues

1. Did XL Insurance America, Inc. take final action on the bill for the service in question prior to the request for medical fee dispute resolution (MFDR)?
2. Is Keith Louden, M.D. entitled to reimbursement?

### Findings

1. Dr. Louden is seeking reimbursement for a designated doctor examination to determine maximum medical improvement (MMI) and impairment rating (IR).

The requester indicated that it did not receive payment or an explanation of denial for medical bills submitted for the examination in question. The insurance carrier did not respond to this dispute.

Per 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.

The greater weight of evidence presented to DWC supports that a complete bill for the services in question was submitted and received by the insurance carrier or its agent. No evidence was provided to support that the insurance carrier took final action on the bill for the service in question.

2. Because the insurance carrier failed to provide any defense for non-payment of the designated doctor examination in question, DWC finds that Dr. Louden is entitled to reimbursement.

Per 28 TAC §134.240(d)(2)(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."

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.'"

28 TAC §134.240(d)(4) states, in relevant part, "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).
- (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) body structures (including skin); and
    - (III) mental and behavioral disorders.
  - (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).

The submitted documentation supports that Dr. Louden determined that the injured employee had reached MMI and performed an IR evaluation of four body areas: the spine, upper extremities, nose, and a traumatic brain injury. No adjustments apply to the date of service in question. Therefore, the reimbursement for these services is \$1,410.00

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.

- (2) The designated doctor must add modifier "25" once per bill when addressing issues on the same day, regardless of the number of diagnoses or the number of issues the division ordered the designated doctor to examine.
- (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.

28 TAC §127.130(b)(9)(B) requires the designated doctor to be board certified to examine traumatic brain injuries. DWC finds that Dr. Louden has the appropriate qualifications to perform this examination. Therefore, the reimbursement for this service is \$300.00.

The total allowable reimbursement for the services in question is \$1,710.00. This amount is recommended.

Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the requester and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requester has established that reimbursement of \$1,710.00 is due.

**Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requester is entitled to reimbursement for the disputed services. It is ordered that XL Insurance America, Inc. must remit to Keith Louden, M.D. \$1,710.00 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

July 10, 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](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).