

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requester Name**

Kasey Kunkel DC

**Respondent Name**

Old Republic Insurance Company

**MFDR Tracking Number**

M4-25-2540-01

**Carrier's Austin Representative**

Box Number 44

**DWC Date Received**

June 11, 2025

### Summary of Findings

| Dates of Service  | Disputed Services                         | Amount in Dispute | Amount Due |
|-------------------|-------------------------------------------|-------------------|------------|
| December 16, 2024 | Designated Doctor Examination<br>99456-W5 | \$834.00          | \$834.00   |

### Requester's Position

"Per Rule 133.240, the insurance carrier is required to take final action and send an EOB to the provider not later than the 45th day after receipt of the bill."

**Amount in Dispute:** \$834.00

### Respondent's Position

The Austin carrier representative for Old Republic Insurance Company is White Espey Pllc. White Espey Pllc was notified of this medical fee dispute on June 13, 2025. Rule §133.307(d)(1) states that if the division does not receive the response within 14 calendar days of the dispute notification, then the division may base its decision on the available information. As of today, no response has been received from the carrier or its representative. We therefore base this decision on the information available as authorized under §133.307(d)(1).

## 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 \(TAC\) §133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 TAC §134.210](#) sets out the fee guidelines for workers' compensation specific services.
3. [28 TAC §133.240](#) sets out the requirements for submission of a medical bill.
4. [28 TAC §134.240](#) sets out the fee guidelines for designated doctor examinations.

### Denial Reasons

Neither party submitted an explanation of benefits (EOBs) for consideration in this dispute. Accordingly, the review is based on the information available at the time of the review.

### Issues

1. Did Old Republic Insurance Company take final action on the bill for the disputed service before medical fee dispute resolution was requested?
2. Is Kasey Kunkel DC entitled to reimbursement?

### Findings

1. Dr. Kunkel is seeking reimbursement for a designated doctor examination to determine maximum medical improvement and impairment rating on December 16, 2024. The insurance carrier did not provide a response to this dispute. DWC will base its decision on the available information.

Dr. Kunkel mentioned in the documentation that no payment or an explanation of denial for medical bills were received for the examination in question.

A review of the documentation provided by the requester supports compliance with 28 TAC §133.307(c)(2)(K), which requires submission of each related EOB or, in its absence, convincing evidence that a request for the EOB was sent to and received by the insurance carrier. The requester included sufficient documentation demonstrating that a request for the EOB was made and not received. This supports that the required step was completed prior to filing the MFDR and that the request was made in accordance with the form and manner prescribed by the division.

28 TAC §133.240 (a) requires the insurance carrier 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 received by the insurance carrier or its agent. No evidence was provided to support the fact that the insurance carrier took final action on the bill for the service in question.

2. Because Old Republic Insurance Company failed to provide any defense of its non-payment for the services in question, Dr. Kunkel is entitled to reimbursement.

28 TAC §134.240(d)(3) states, "MMI. 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, "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." Per subsection (A)(ii)(I), "the reimbursement for the first musculoskeletal body area is \$385 adjusted per §134.210(b)(4)."

A review of the submitted medical record finds that the requester provided an evaluation of maximum medical improvement (MMI) and impairment rating (IR) of an upper body musculoskeletal body area. No adjustments apply to the date of service in dispute.

In accordance with 28 TAC §134.240, the reimbursements which apply to the disputed examination rendered on December 16, 2024, are:

| <b>Designated Doctor Exam Fees for dates of service 6/1/2024 - 12/31/2024</b> |                 |
|-------------------------------------------------------------------------------|-----------------|
| MMI exam                                                                      | \$449.00        |
| IR exam first musculoskeletal (MSK) body area / Upper body extremity          | \$385.00        |
| <b>Total</b>                                                                  | <b>\$834.00</b> |

DWC finds that reimbursement in the amount of \$834.00 is due for the services in dispute.

### 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 \$834.00 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 Old Republic Insurance Company must remit to Dr. Kunkel \$834.00 plus applicable accrued interest within 30 days of receiving this

order in accordance with 28 TAC §134.130.

## Authorized Signature

|                    |                                                 |                                  |
|--------------------|-------------------------------------------------|----------------------------------|
| _____<br>Signature | _____<br>Medical Fee Dispute Resolution Officer | _____<br>August 26, 2025<br>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 electronico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).