



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requester Name**

Victor Kumar-Misir, M.D.

**Respondent Name**

City of Austin

**MFDR Tracking Number**

M4-26-0111-01

**Insurance Carrier's Austin Representative**

BOX 19 Flahive Ogden & Latson

**DWC Date Received**

September 11, 2025

### Summary of Findings

Date(s) of Service	Disputed Services	Amount in Dispute	Amount Due
March 10, 2025	99546	\$449.00	\$449.00
March 10, 2025	99456 x 3	\$769.00	\$769.00
<b>Total</b>		<b>\$1,218.00</b>	<b>\$1,218.00</b>

### Requester's Position

"The attached bill/claim and supporting documentation was submitted per rule 133.200 (Medical Bill Submission by a Healthcare Provider) using the proper billing codes (MAR), modifiers, and dollar amounts for Certifying Doctor Examinations per Rule 130.1... The claim/bill was correctly billed per Rule 134.260 MMI/IR by a Referred Doctor other than Treating Doctor... No payment and no denial or Explanation of Benefits (EOB) has been received for this bill/claim which is required per Rule 133.240(a) to be done no later than 45 days from the date the carrier receives the bill/claim. The payment and EOB is now past due, and we ask that this request be expedited to ensure prompt payment to the Designated Doctor for services rendered".

**Amount In Dispute:** \$\$1,218.00

## Respondent's Position

"The provider filed a DWC 60, seeking Medical Fee Dispute Resolution for a date of service of March 10, 2025. The provider is identified on documents he filed as the doctor selected by treating doctor acting in place of the treating doctor.

The provider is seeking payment of \$1,218 based upon an MMI and impairment rating exam. The provider is not entitled to any reimbursement. Moreover, we believe that the provider is not entitled to Medical Fee Dispute Resolution unless the Medical Review Division agrees that the issue in dispute involves a medical benefit. However, if that is the case, then the provider is not entitled to any reimbursement because of a subrogation lien in which there is an advance from a third-party settlement of over \$834,000. Thus, if the provider's issue concerns a medical benefit, the provider is not entitled to any reimbursement from the carrier but rather must look to the claimant for payment. See section 417.002 which provides that any amount recovered in that third-party case that exceeds the amount of reimbursement shall be treated as an advance against future benefits, including medical benefits that the claimant is entitled to receive. If the advance is adequate to cover all future benefits, the insurance carrier is not required to resume the payment of benefits. If the advance is insufficient, the insurance carrier shall resume the payment of benefits when the advance is exhausted.

At the current time, the advance is over \$834,000. It has not been exhausted. Accordingly, if the claimed recovery is for medical benefits, the provider is entitled to no reimbursement from the carrier but must look to the claimant for payment.

If the provider claims that his recovery is not for medical benefits, then the Medical Review Division is not the appropriate venue to resolve the issue since the Medical Review Division resolves only medical fee disputes, meaning disputes over medical benefits".

**Response Submitted By:** Flahive, Ogden & Latson

## Findings and Decision

### Authority

This medical fee dispute is decided according to Texas Labor Code Section [413.031](#) and other applicable laws and rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

### Statutes and Rules

1. 28 Texas Administrative Code (TAC) Section [133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 Texas Administrative Code \(TAC\) Section 133.305](#) MDR -- General.
3. [28 TAC Section 134.260](#) Maximum Medical Improvement Evaluations and Impairment Rating Examinations by Referred Doctors.
4. [Texas Labor Code Section 417.002](#) Recovery in Third-Party Action.

5. [28 TAC Section 133.240](#) sets out the medical bill processing/audit by insurance carrier medical payments and denials.
6. [28 TAC Sections 133.500 and 133.501](#) sets out electronic medical billing, reimbursement and documentation requirements.

### Adjustment Reasons

1. P8 – Claim is under investigation.
2. 5477 – Charges denied as claim is still under investigation.
3. 5050 – Claim is denied. No payment will be made.
4. P4 – Workers compensation claim adjudicated as non-compensable. This payer is not liable for claim or service/treatment.
5. N612 – Medical provider not authorized/certified to provide treatment to injured workers in this jurisdiction.
6. 247 – A payment or denial has already been recommended for this service.
7. 18 – Exact duplicate claim/service.
8. 1014 – The attached billing has been re-evaluated at the request of the provider. Based on this re-evaluation, we find our original review to be correct. Therefore, no additional allowance appears to be warranted.
9. 2005 – No additional reimbursement allowed after review of appeal/reconsideration.
10. 296 – Service exceeds maximum reimbursement guidelines.
11. 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
12. P12 – Workers compensation jurisdictional fee schedule adjustment.
13. W3 – Bill is a reconsideration or appeal.
14. N600 – Adjusted based on the applicable fee schedule for the region in which the service was rendered

### Issues

1. What is DWC considering in this medical fee dispute?
2. Is the workers' compensation insurance carrier's denial based on the extent of injury, compensability, and or liability supported by the evidence?
3. Is the insurance carrier's assertion that the services are not reimbursable due to a third-party settlement supported
4. Is the requester entitled to reimbursement?

### Findings

1. The requester seeks reimbursement in the amount of \$1,218.00 for a certifying doctor examination that was referred to by the treating doctor, to determine maximum medical improvement (MMI) and an impairment rating. On September 11, 2025 the requester timely filed a Medical Fee Dispute Resolution (MFDR) request (form DWC-060). The Division of

Workers Compensation (DWC) finds the following:

- The examination was performed on March 10, 2025.
  - The requester billed the insurance carrier on April 30, 2025 in the amount of \$1,218.00 and submitted the medical bill for reconsideration on July 1, 2025.
  - The insurance carrier denied payment for multiple reasons, indicated above.
2. A review of the submitted documentation indicates that the carrier denied the disputed charges on the grounds of compensability, extent of injury and or liability. Pursuant to 28 TAC Section 133.305(b), if a dispute concerning extent of injury, compensability, or liability exists for the same service at issue in a medical fee dispute, those matters must be resolved before the fee dispute can proceed.

Additionally, 28 TAC Section 133.307(d)(2)(H) requires the insurance carrier to provide evidence that a Plain Language Notice (PLN) regarding the disputed injury was filed and sent to the requester, or that the requester had actual notice of the PLN prior to submitting the medical fee dispute.

The documentation provided does not demonstrate that the respondent filed or communicated a PLN to the requester. There is also no evidence that the requester had prior notice of any PLN.

Accordingly, DWC finds the insurance carrier's denial is not supported by sufficient evidence. Therefore, the dispute is eligible for resolution under the applicable rules and guidelines.

3. The insurance carrier further asserts that the services are not reimbursable due to a third-party settlement. The carrier contends that the provider must seek payment from the claimant rather than the carrier and cites Texas Labor Code Section 417.002, noting that the claimant's third-party recovery exceeds \$834,000 and has not been exhausted.

Under 28 TAC Section 133.240, when an insurance carrier receives a complete medical bill, it must take final action after conducting bill review no later than the 45th day after receipt. The carrier must also issue an explanation of benefits (EOB) in accordance with Sections 133.500 and 133.501 and send the EOB to the health care provider when payment is made or denied.

However, the documentation reflects that the third-party settlement issue was not raised prior to the filing of the MFDR request. The EOB does not include any denial reason related to a third-party settlement or exhaustion of benefits. If it was the City of Austin's intention to deny or reduce reimbursement based on a third-party settlement, it was obligated to issue an EOB clearly identifying that reason.

The City of Austin's failure to timely raise this defense in its EOB constitutes a waiver of that defense under 28 TAC Section 133.307(d)(2)(F).

The carrier's response in an MFDR dispute may address only those denial reasons presented to the requester prior to the date the MFDR was filed. Any new denial reasons or defenses raised after that date will not be considered.

In the absence of evidence that the City of Austin raised defenses consistent with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the Division concludes that the defenses presented in the carrier's position statement constitute new defenses under Section 133.307(d)(2)(F) and will not be considered in this review.

4. The Division of Workers' Compensation (DWC) concludes that the insurance carrier failed to provide sufficient evidence to support its denial based on the extent-of-injury issue and the asserted third-party settlement defense. The carrier has therefore not overcome its obligation to reimburse the disputed services.

Accordingly, pursuant to 28 TAC Section 134.260, the requester is entitled to reimbursement in the sought amount of \$1,218.00.

### Conclusion

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

DWC finds the requester has established that reimbursement is due.

### **Order**

Under Texas Labor Code Sections [413.031](#) and [413.019](#), DWC has determined the requester is entitled to reimbursement for the disputed services. It is ordered that City of Austin must remit to Victor Kumar-Misir, M.D., \$1,218.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC Section [134.130](#).

### **Authorized Signature**

_____	_____	February 19, 2026
Signature	Medical Fee Dispute Resolution Officer	Date

### **Your Right to Appeal**

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC Section [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 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 this *Medical Fee Dispute Resolution Findings and Decision*** with any other required information listed in 28 TAC Section [141.1\(d\)](#).

Si prefiere hablar con una persona en español acerca de esta correspondencia, favor de llamar a 800-252-7031, opción tres o correo electrónico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).