



## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requester Name**

Javier Hernandez, D.C.

**Respondent Name**

Commerce & Industry Insurance Company

**MFDR Tracking Number**

M4-26-0822-01

**Insurance Carrier's Austin Representative**

BOX 19 Flahive Ogden & Latson

**DWC Date Received**

November 20, 2025

### Summary of Findings

Date(s) of Service	Disputed Services	Amount in Dispute	Amount Due
June 10, 2025	99456 W5 Designated Doctor Examination	\$449.00	\$449.00
June 10, 2025	99456 W5 Designated Doctor Examination	\$385.00	\$385.00
<b>Total</b>		<b>\$834.00</b>	<b>\$834.00</b>

### Requester's Position

"No response or correspondence to original bill or reconsideration."

**Amount In Dispute:** \$834.00

### Respondent's Position

The Austin carrier representative for Commerce & Industry Insurance Company is Flahive Ogden & Latson. The representative was notified of this medical fee dispute on November 24, 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 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 TAC Section [134.210](#) sets out the fee guidelines for workers' compensation specific services.
3. 28 TAC Section [133.240](#) sets out the procedures for payment, reduction, or denial of a medical bill.
4. 28 TAC Section [134.240](#) sets out the fee guidelines for designated doctor examinations.
5. 28 TAC Section [133.210](#) sets out medical documentation requirements for reimbursement of medical services.

### Adjustment Reasons

Neither party submitted an explanation of benefits for the disputed services.

### Issues

1. What is DWC considering in this medical fee dispute?
2. Did the insurance carrier take final action on the bill for the disputed service before medical fee dispute resolution was requested?
3. Is the requester entitled to reimbursement?

### Findings

1. Dr. Hernandez is requesting reimbursement for a designated doctor examination conducted on June 10, 2025, to determine Maximum Medical Improvement(MMI) and Impairment Rating(IR). The insurance carrier did not respond to the medical fee dispute resolution request. Accordingly, the Division of Workers' Compensation (DWC) may render its decision based on the information available.
2. Dr. Hernandez noted in the documentation that no payment or explanation of denial was received for the medical bills associated with the examination in question.

28 TAC Section 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.

A review of the submitted documentation provided by the requester finds that the bill was faxed and emailed to insurance carrier on June 18, 2025.

28 TAC 133.210(e) states, "It is the insurance carrier's obligation to furnish its agents with any documentation necessary for the resolution of a medical bill. DWC considers any medical billing information or documentation possessed by one entity to be simultaneously possessed by the other."

The preponderance of evidence submitted to the DWC indicates that the insurance carrier or its agent received a complete bill for the services in question. However, no evidence was provided to demonstrate that the insurance carrier took final action on the billed services.

3. DWC finds that because Commerce & Industry Insurance Company failed to provide any defense of its non-payment for the services in question, Dr. Hernandez is entitled to reimbursement.

28 TAC Section 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 Section 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 records indicates that the requester provided an evaluation for Maximum Medical Improvement (MMI) and Impairment Rating (IR). In accordance with 28 TAC §134.240, the reimbursement applicable to the disputed examination performed on June 10, 2025, is as follows:

<b>Designated Doctor Exam Fees for dates of service 1/1/2025 - 12/31/2025</b>	
<b>Annual MEI percentage 3.5%</b>	
MMI exam	\$465
IR exam first musculoskeletal (MSK) body area	\$398
<b>Total</b>	<b>\$863.00</b>

The total allowable reimbursement is \$863.00. The requester is seeking \$834.00. This

amount is recommended.

### 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 Commerce & Industry Insurance Company must remit to Javier Hernandez, D.C. \$834.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC Section [134.130](#).

### **Authorized Signature**

_____	_____	February 27, 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 electronico [CompConnection@tdi.texas.gov](mailto:CompConnection@tdi.texas.gov).