TDI Division of Workers' Compensation
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Medical Fee Dispute Resolution Findings and Decision

General Information

Requester Name

Darla Kelly, D.C.

Respondent Name

City of Austin

MFDR Tracking Number

M4-26-1725-01

Insurance Carrier's Austin Representative

BOX 19 Flahive Ogden & Latson

DWC Date Received

February 18, 2026

Summary of Findings

Date(s) of Service	Disputed Services	Amount in Dispute	Amount Due
November 24, 2025	99456-W5-NM	$664.00	$465.00
	Total	$664.00	$465.00

Requester's Position

"The bill and report were submitted to the fax number listed on the DWC 32 on 12/15/2025. Payment has still not been received nor an EOB/denial letter. If you could please assist with getting this bill paid, it would be greatly appreciated."

Amount In Dispute: $664.00

Respondent's Position

The Austin carrier representative for City of Austin is Flahive, Ogden & Latson. The representative was notified of this medical fee dispute on February 20, 2026.

Per 28 Texas Administrative Code Section 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 134.240 sets out the fee guidelines for designated doctor examinations.
3. 28 TAC Section 134.210 sets out the fee guidelines for workers' compensation specific services.
4. 28 TAC Section 127.10 provides the general procedures for designated doctor examinations.
5. 28 TAC Section 133.20 sets out the requirements for medical bill submission.
6. 28 TAC Section 133.240 sets out the procedures for payment, reduction, or denial of a medical bill.

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 a complete medical bill?
3. What rules apply to the services in dispute?
4. Is the requester entitled to reimbursement?

Findings

1. This medical fee dispute resolution (MFDR) request involves non-payment of a DWC ordered designated doctor examination. In its position statement, the requester asserts that it has not received payment nor an explanation of benefits (EOB) denying payment for the services in dispute.

The requester is seeking reimbursement in the amount of $664.00. DWC will review the submitted documentation to determine the requester's entitlement to reimbursement in accordance with the applicable Statutes and Rules.

2. DWC Rule 28 TAC Section 133.240(a) requires an insurance carrier to take final action on a complete medical bill or determine to audit the bill pursuant to Section 133.230, no later than the 45th day after receipt of the bill.

   A review of the submitted documentation finds that the requester submitted a complete medical bill for the services in question to an agent of the respondent as required in accordance with 28 TAC Section 133.20 on December 15, 2025, less than 95 days from the disputed date of service.

   A review of the submitted documentation found no evidence that the insurance carrier took final action, initiated an audit, or issued an EOB for the disputed medical bill. As of February 18, 2026, the date the MFDR request was submitted, no documented basis for denial of payment had been provided. Accordingly, DWC finds that the insurance carrier failed to comply with 28 TAC Section 133.240, and the disputed services will be reviewed under the applicable fee guidelines.

3. This medical fee dispute involves an examination by a designated doctor for the purpose of establishing: if maximum medical improvement (MMI) has been reached; what date MMI was reached if applicable; and to provide impairment ratings (IR) if MMI has been reached.

   On the disputed date of service, the requester billed a total amount of $857.00 for designated doctor services billed under CPT codes 99456-W5-NM and 99358. CPT code 99456 indicates the service of a maximum medical improvement (MMI) and/or impairment rating (IR) examination by a designated doctor. A review of the DWC Form-060 *Medical Fee Dispute Resolution Request* (DWC Form-060), 99456-W5-NM is the only CPT code in dispute and therefore, only CPT code 99456-W5-NM will be considered in this review.

   DWC finds that 28 TAC Section 134.240, adopted to be effective June 1, 2024, applies to the reimbursement of the services in dispute. 28 TAC Section 134.240(d) states, in pertinent part:

   "(2)(A) **If the designated doctor determines that MMI has not been reached, the MMI evaluation portion of the examination must be billed and reimbursed in accordance with subsection (d) of this section. The designated doctor must add modifier 'NM'**…

   (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.

   (3) MMI. MMI evaluations will be reimbursed at $449 adjusted per §134.210(b)(4), and the designated doctor must apply the additional modifier 'W5.'

   (4) 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 unit's 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: (musculoskeletal structures of torso)

(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)."

DWC finds that 28 TAC Section 134.210 applies to the annual fee adjustment of the disputed services, stating in pertinent part, "(b)(4) Fees established in §§134.235, 134.240, 134.250, and 134.260 of this title will be:

"(A) adjusted once by applying the Medicare Economic Index (MEI) percentage adjustment factor for the period 2009 - 2024.

(B) adjusted annually by applying the MEI percentage adjustment factor identified in §134.203(c)(2).

(C) rounded to whole dollars by dropping amounts under 50 cents and increasing amounts from 50 to 99 cents to the next dollar. For example, $1.39 becomes $1 and

$2.50 becomes $3.

(D) effective on January 1 of each new calendar year."

4. The requester, a designated doctor, is seeking reimbursement in the amount of $664.00 for CPT code 99456-W5-NM rendered on November 24, 2025.

   A review of the submitted documents finds that on the disputed date of service, the medical record supports that the requester, a designated doctor, performed an evaluation of maximum medical improvement (MMI) as ordered by DWC. Per 28 TAC Section 134.240(d), the maximum allowable reimbursement (MAR) in 2025 for this examination is $465.00.

   A review of the submitted medical record additionally finds that the injured employee was **not found to be at MMI**; therefore, the designated doctor was not able to perform an impairment rating (IR). The requester appended procedure code 99456 with the modifier "NM" in accordance with 28 TAC Section 134.240.

   DWC finds that in accordance with 28 TAC Section 134.240, the appropriate total amount of reimbursement for the disputed designated doctor examination rendered on November 24, 2025, is $465.00.

   Because the insurance carrier failed to issue a timely EOB and failed to take final action on the medical bill in accordance with 28 TAC Section 133.240, DWC finds that the requester, a designated doctor, is entitled to reimbursement in the amount of $465.00.

Conclusion

The outcome of this medical fee dispute is based on the evidence the 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 Darla Kelly, D.C. $465.00 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC Section 134.130.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	May 18, 2026 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. 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.

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.