



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

PAUL C. BREEDING, DC

Respondent Name

TEXAS MUTUAL INSURANCE CO

MFDR Tracking Number

M4-14-1576-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

FEBRUARY 3, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: The requestor did not submit a position summary in the dispute packet.

Amount in Dispute: \$600.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The requestor provided designated doctor exams on the date above and then billed code 99456-NM because the claimant was not at MMI. However, the requestor did not state, in terms of a date, when the claimant 'is expected to reach MMI on or about...' Absent this Texas Mutual declined to pay 99456-NM. The requestor billed 99456-W8 yet there is no return to work determination in the requestor's narrative report. For this reason no payment was made. The requestor billed 99456-W6 and Texas Mutual paid the MAR for this code. No additional payment is due."

Response Submitted by: Texas Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 9, 2013	CPT Code 99456-W5-NM Designated Doctor Evaluation	\$350.00	\$350.00
	CPT Code 99456-W6-RE Extent of Injury Evaluation	\$00.00	\$00.00
	CPT Code 99456-W8-RE Return to Work Evaluation	\$250.00	\$250.00
TOTAL		\$600.00	\$600.00

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.204, effective March 1, 2008, sets the reimbursement guidelines for the

disputed service.

3. The services in dispute were reduced / denied by the respondent with the following reason codes:
 - CAC-W1-Workers compensation state fee schedule adjustment.
 - 790-This charge was reimbursed in accordance to the Texas medical fee guideline.
 - 892-Denied in accordance with DWC rules and/or medical fee guideline including current CPT code descriptions/instructions.
 - CAC-W3, 350-In accordance with TDI-DWC rule 134.804, this bill has been identified as a request for reconsideration or appeal.
 - 724-No additional payment after a reconsideration of services.
 - CAC-193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.

Issues

1. Is the requestor entitled to reimbursement for 99456-W5-NM?
2. Is the requestor entitled to reimbursement for 99456-RE-W8?

Findings

1. On the disputed date of service, the requestor billed CPT codes 99456-W5-NM.
 - 28 Texas Administrative Code §134.204(i)(1)(A) states “The following shall apply to Designated Doctor Examinations. (1) Designated Doctors shall perform examinations in accordance with Labor Code §§408.004, 408.0041 and 408.151 and Division rules, and shall be billed and reimbursed as follows: (A) Impairment caused by the compensable injury shall be billed and reimbursed in accordance with subsection (j) of this section, and the use of the additional modifier "W5" is the first modifier to be applied when performed by a designated doctor”

A review of the submitted medical billing finds that the requestor billed modifier “W5” as the first modifier appended to CPT code 99456.

- 28 Texas Administrative Code §134.204(j)(3) states “The following applies for billing and reimbursement of an MMI evaluation. (C) An examining doctor, other than the treating doctor, shall bill using CPT Code 99456. Reimbursement shall be \$350.”

The requestor billed CPT code 99456 because the examination was performed by a designated doctor.

- Per 28 Texas Administrative Code §134.204(j) “Maximum Medical Improvement and/or Impairment Rating (MMI/IR) examinations shall be billed and reimbursed as follows: (A) If the examining doctor, other than the treating doctor, determines MMI has not been reached, the MMI evaluation portion of the examination shall be billed and reimbursed in accordance with paragraph (3) of this subsection. Modifier "NM" shall be added.”
- 28 Texas Administrative Code §134.204(n)(6) states “The following Division Modifiers shall be used by HCPs billing professional medical services for correct coding, reporting, billing, and reimbursement of the procedure codes. The “NM” modifier is defined as “Not at Maximum Medical Improvement (MMI)--This modifier shall be added to the appropriate MMI CPT code to indicate that the injured employee has not reached MMI when the purpose of the examination was to determine MMI.”

A review of the requestor’s billing finds that the “NM” modifier was appended to CPT code 99456 to designate that the claimant had not reached MMI. The requestor wrote in the Designated Doctor examination report that “[Claimant] has not reached MMI and will require arthroscopic surgery in his left knee to repair a torn Medial Meniscus. He will require extensive post-operative rehabilitation in both knees to achieve MMI.” The Division concludes that the requestor assessed that claimant was not at MMI and reimbursement is recommended for the examination.

28 Texas Administrative Code §134.204(j)(3) indicates that the total maximum allowable reimbursement, (MAR), for CPT code 99456-W5-NM is \$350.00. The respondent paid \$0.00. As a result, the requestor is entitled to reimbursement of \$350.00.

2. On the disputed date of service, the requestor also billed CPT codes 99456-W6-RE, and 99456-W8-RE.

- 28 Texas Administrative Code §134.204(i)(1)(C) stipulates “Extent of the employee's compensable injury shall be billed and reimbursed in accordance with subsection (k) of this section, with the use of the additional modifier "W6.” The respondent paid for this examination and it is not in dispute; therefore, will not be addressed any further.
- 28 Texas Administrative Code §134.204(i)(1)(E) indicates that modifier “W8” is billed for examination that determine the “Ability of the employee to return to work shall be billed and reimbursed in accordance with subsection (k) of this section.” The requestor noted on the Designated Doctor examination report that “The patient was put on total temporary disability on 10-30-2011.” In addition, the requestor included a DWC-73 Work Status report that indicates claimant was unable to return to work. The Division concludes the examination was performed and reimbursement is due.

A review of the submitted medical billing finds that the requestor supported billing 99456-W6-RE, and 99456-W8-RE.

The MAR for CPT codes 99456-W6-RE, and 99456-W8-RE is:

- 28 Texas Administrative Code §134.204(k) states “The following shall apply to Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a Division or insurance carrier requested RTW/EMC examination, the examining doctor shall bill and be reimbursed using CPT Code 99456 with modifier "RE." In either instance of whether MMI/IR is performed or not, the reimbursement shall be \$500 in accordance with subsection (i) of this section and shall include Division-required reports. Testing that is required shall be billed using the appropriate CPT codes and reimbursed in addition to the examination fee.”
- 28 Texas Administrative Code §134.204(i)(2) states “When multiple examinations under the same specific Division order are performed concurrently under paragraph (1)(C) - (F) of this subsection: (A) the first examination shall be reimbursed at 100 percent of the set fee outlined in subsection (k) of this section; (B) the second examination shall be reimbursed at 50 percent of the set fee outlined in subsection (k) of this section; and (C) subsequent examinations shall be reimbursed at 25 percent of the set fee outlined in subsection (k) of this section.” Because both examinations billed under CPT codes 99456-W6-RE, and 99456-W8-RE are performed concurrently under paragraph (1)(C) - (F), the first shall be reimbursed at 100% and the second at 50%.

The Division finds that the requestor is due \$500.00 for the extent of injury examination, and \$250.00 for the return to work examination, for a total allowable of \$750.00. The respondent paid \$500.00. As a result, the requestor is entitled to reimbursement of \$250.00.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$600.00.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$600.00 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	Date
		<u>10/29/2014</u>

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.