**Texas Department of Insurance, Division of Workers' Compensation**
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

# MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

## PART I: GENERAL INFORMATION

| | |
|---|---|
| Requestor's Name and Address:<br><br>Southwest Medical Examination Services, Inc.<br>7502 Greenville Ave., Ste. 600<br>Dallas, TX 75231 | MFDR Tracking #: M4-07-4728-01<br>DWC Claim #:<br>Injured Employee: |
| Respondent Name and Box #:<br><br>American Home Assurance Co.<br>Rep. Box #19 | Date of Injury:<br>Employer Name: Allied Waste Industries Inc.<br>Insurance Carrier #: 710237860 |

## PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

Requestor's Position Summary:

"Billed per Advisory 2004-06; and Required test for RTW/EMC exam."

Principle Documentation:

1. DWC 60 package
2. CMS 1500(s)
3. EOB(s)

## PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

Respondent's Position Summary:

"Carrier asserts that it has issue correct reimbursement based upon the provisions of 28 TAC 134.202 and other applicable provisions of the Texas Workers' Compensation Act and DWC Rules."

Principle Documentation:

1. Response to DWC 60

## PART IV: SUMMARY OF FINDINGS

Review of the box 32 on CMS-1500, revealed zip code 77401 is located in Harris county.

| Date(s) of Service | Denial Code(s) | CPT Code(s) and Calculations | Part V Reference | Amount Due |
|---|---|---|---|---|
| 5-31-06 | W4, 172, W11 | 99456-RE-59- Evaluation for MMI/IR | 1-6 | $700.00 |
| | | 95833 | 1-3, 7 | $51.68 |
| | | 95851 | 1-3, 7 | $0.00 |
| **Total Due:** | | | | $751.68 |

## PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION

Section §413.011(a-d) titled, *Reimbursement Policies and Guidelines*, and Division Rule 134.202 titled, *Medical Fee Guideline* effective August 1, 2003, sets out the reimbursement guidelines.

1. These services were denied by the Respondent with reason code "W4 – No additional reimbursement allowed after review of appeal/reconsideration; 172 –Payment is adjusted when performed/billed by a provider of this specialty; and W11 – Entitlement to benefits. Not finally adjudicated. "

2. The disputed service was a required medical examination (RME); therefore, the insurance carrier inappropriately denied reimbursement based upon "W11."

3. The disputed services were performed by a medical doctor; therefore, the insurance carrier's EOB denial based upon "172" was inappropriate.

4. According to Rule 134.202(e)(7), "Return to Work (RTW) and/or Evaluation of Medical Care (EMC) Examinations. When conducting a commission or insurance carrier requested RTW/EMC examination that is not for the purpose of certifying MMI and/or assigning an IR (e.g., a medical necessity issue), the examining doctor shall bill and be reimbursed using the "Work related or medical disability examination by other than the treating physician…" CPT code with modifier "RE." The reimbursement shall be $350.00 and shall include commission-required reports. Testing that is required shall be billed using the appropriate CPT code and reimbursed in addition to the examination fee."

5. Advisory 2004-06, issued on May 12, 2004, stated in part that, "A carrier may request a doctor to perform an examination of the injured employee to determine the ability of the injured employee to return to work, to evaluate the medical care of the employee, or both. If the carrier asks, in a single request, for the doctor to both evaluate the medical care and to determine the ability of the injured employee to return to work, the doctor may bill and be reimbursed for each evaluation, both of which occurred in a single examination. In such cases, the doctor may use modifier"59" to indicate that the services performed to complete the carrier's request were distinct or independent, but appropriate under the circumstances."

6. On this date, the Requestor billed $700.00 for CPT code 99456-RE-59. Per Advisory 2004-06, the Requestor performed two evaluations and utilized modifier-"59" to differentiate it from a single evaluation. Therefore, Per Rule 134.202(e)(7), the Requestor is entitled to $350.00 + $350.00 = $700.00. The insurance carrier paid $0.00. The Requestor is entitled to reimbursement of $700.00.

7. According to Rule 134.202(e)(7), "Testing that is required shall be billed using the appropriate CPT code and reimbursed in addition to the examination fee." On this date, the Requestor billed CPT code 99456-RE-59 for the examination and CPT codes 95851 and 95833 for the testing.
   - Per Rule 134.202(b), CPT code 95851 is global to CPT code 95833; therefore, they will not be paid separately. No reimbursement is recommended for CPT code 95851.
   - Per Rule 134.202(b), CPT code 95833 is not global to CPT codes 99456-RE-59 or 95851. Per Commissioner's Bulletin #B-0006-06, "The CY 2005 conversion factor of $37.8975 is to be used effective immediately when calculating MAR for services provided on of after January 1, 2006." The MAR for CPT code 95833 is $51.68, this amount is recommended.

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES**

Texas Labor Code Sec. §413.011(a-d)
28 Texas Administrative Code Sec. §134.1, §134.202
Advisory 2004-06

**PART VII: DIVISION DECISION AND/OR ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. §413.031, the Division has determined that the Requestor is entitled to reimbursement. The Division hereby **ORDERS** the Carrier to remit to the Requestor the amount of $751.68 plus accrued interest, due within 30 days of receipt of this Order.

**ORDER / DECISION:**

| Authorized Signature | Elizabeth Pickle, RHIA<br>Medical Fee Dispute Resolution Officer | June 21, 2007<br>Date |
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**PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW**

Appeals of medical dispute resolution decisions and orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. §413.031(k), as amended and effective Sept. 1, 2005]. An appeal to District Court must be filed not later than 30 days after the date on which the decision, that is the subject of the appeal, is final and appealable. The Division is not considered a party to the appeal.

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