

**MAXIMUS FEDERAL SERVICES, INC.**

Independent Bill Review  
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Sacramento, CA 95813-8006  
Fax: (916) 605-4280

**Independent Bill Review Final Determination Reversed**

6/9/2014

[REDACTED]  
[REDACTED]  
[REDACTED]

IBR Case Number:	CB13-0000482	Date of Injury:	5/26/2010
Claim Number:	[REDACTED]	Application Received:	9/13/2013
Claims Administrator:	[REDACTED]		
Date(s) of service:	2/6/2013 – 2/6/2013		
Provider Name:	[REDACTED]		
Employee Name:	[REDACTED]		
Disputed Codes:	ML104		

Dear [REDACTED]:

**Determination:**

A Request for Independent Bill Review (IBR) was assigned to MAXIMUS Federal Services on 1/10/2014, by the Administrative Director of the California Division of Workers' Compensation pursuant to California Labor Code section 4603.6. MAXIMUS Federal Services has determined that the **Claims Administrator's determination is reversed. The Claims Administrator is required to reimburse you the IBR fee of \$335.00 and the amount found owing of \$222.34, for a total of \$557.34.**

**Pertinent Records and Other Appropriate Information Relevant to the Determination Reviewed:**

The following evidence was used to support the decision:

- The original billing itemization
- Supporting documents submitted with the original billing
- Explanation of Review in response to the original bill
- Request for Second Bill Review and documentation
- Supporting documents submitted with the request for second review
- The final explanation of the second review
- Official Medical Fee Schedule or negotiated contract: OMFS
- Other: Medical-Legal Fee Schedule, OMFS Physicians Fee Schedule

**Supporting Analysis:**

The dispute regards the payment amount for Medical-Legal expenses (ML104) performed on date of service 2/6/2013. The Claims Administrator based its reimbursement of \$261.60 for ML104 on CPT 90801 and 99080 with the explanation "The documentation does not support the level of service billed. Reimbursement was made for a code that is supported by the documentation submitted with the billing." The Provider billed procedure codes 96100 (8 units) and 90825 in addition to ML104 and was reimbursed for the billed codes based on a PPO contract.

**ML104** - Comprehensive Medical-legal Evaluation Involving Extraordinary Circumstances. The physician shall be reimbursed at the rate of RV 5, or his or her usual and customary hourly fee, whichever is less, for each quarter hour or portion thereof, rounded to the nearest quarter hour, spent by the physician for any of the following:

- (1) An evaluation which requires four or more of the complexity factors listed under ML103; In a separate section at the beginning of the report, the physician shall clearly and concisely specify which four or more of the complexity factors were required for the evaluation, and the circumstances which made these complexity factors applicable to the evaluation. An evaluator who specifies complexity factor (3) must also provide a list of citations to the sources reviewed, and excerpt or include copies of medical evidence relied upon.
- (2) An evaluation involving prior multiple injuries to the same body part or parts being evaluated, and which requires three or more of the complexity factors listed under ML103, including three or more hours of record review by the physician;
- (3) A comprehensive medical-legal evaluation for which the physician and the parties agree, prior to the evaluation, that the evaluation involves extraordinary circumstances. When billing under this code for extraordinary circumstances, the physician shall include in his or her report (i) a clear, concise explanation of the extraordinary circumstances related to the medical condition being evaluated which justifies the use of this procedure code, and (ii) verification under penalty of perjury of the total time spent by the physician in each of these activities: reviewing the records, face-to-face time with the injured worker, preparing the report and, if applicable, any other activities.

The Claims Administrator submitted documentation with additional rationale as to why the Medical-Legal service was reimbursed as CPT 90801 and 99080. The Claims Administrator's letter dated 12/17/2013 provided the following explanation: "Per submitted documentation from the adjuster, who is the party in charge of this claim, a medical legal exam was not requested nor was it authorized. Therefore, the billing of ML104 was not justified. Services were allowed as an initial psychiatric visit with the proper allowance for psychological testing."

The documentation submitted with the case included the following: Letter from the applicant's attorney addressed to the Provider; letter from the applicant's attorney addressed to the Claims Adjuster; and "Comprehensive Medical-Legal Psychiatric Evaluation of Primary Treating Physician" report." The letter addressed to the Provider from the Applicant's attorney, requested a "medical/legal" report. The Claims Administrator and/or Adjuster were not copied on this letter. The separate letter addressed to the Claims Adjuster appeared to be a request for authorization for the injured worker to be treated by the Provider, and a request for medical records to be sent to the Provider. The letter notified the Claims Adjuster of the selection of treating physician, requested authorization for "treatment" and medical records to be sent to the Provider. Based on the documentation, it does not appear the Claims Adjuster/Administrator was notified of the request for Medical-Legal services. The documentation did not include the authorization for the Medical-Legal services from the Claims Administrator.

Reimbursement of the billed Medical-Legal code ML104 (50 units) was not warranted based on the submitted documentation. However, reimbursement is warranted for the services provided and time spent on record review. The reimbursement of the procedure code 90801 by the Claims Administrator was correct. The description of CPT 90801 is “Psychiatric diagnostic interview examination including history, mental status, or disposition.” Per a review of the submitted report, the report was not a Primary Treating Physician Progress Report (PR-2), or a separately reimbursable report as described in the OMFS General Information and Instructions Separately Reimbursable Treatment Reports section. Reimbursement for the report was not warranted; therefore, is not recommended. The Provider documented a total of two hours and thirty minutes of record review. The Provider reviewed the prior QME records for dates of service 5/15/2012 and 10/5/2012. Reimbursement is warranted for prolonged service code 99358 (10units). The description of procedure code 99358 is “Prolonged Evaluation and Management service before and/or after direct (face-to-face) patient care (e.g., review of extensive records, job analysis, evaluation of ergonomic status, work limitations, work capacity, or communication with other professionals and/or the patient/family); each fifteen minutes.”

The additional reimbursement of \$222.34 is recommended per the Official Medical Fee Schedule codes 90801 and 99358.

The chart below provides a comparison of billed charges and reimbursement rates for the codes and date of services at issue.

Validated Code	Dispute Amount	Total Fee Schedule Allowance	Provider Paid Amount	Allowed Recommended Reimbursement	Fee Schedule Utilized
ML104 (90801 and 99358 8 units)	\$3,010.49	\$483.94	\$261.60	\$222.34	OMFS

MAXIMUS Federal Services, as the Independent Bill Review Organization, has determined the Claims Administrator owes the Provider additional reimbursement. The Claims Administrator is required to reimburse the Provider for the IBR application fee (**\$335.00**) and the OMFS amount for CPT code 90801 and 99358 (\$222.34) for a total of \$557.34.

**The Claims Administrator is required to reimburse the provider \$557.34 within 45 days of date on this notice per section 4603.2 (2a). This decision constitutes the final determination of the Division of Workers' Compensation Administrative Director, is binding on all parties, and is not subject to further appeal except as specified in Labor Code section 4603.6(f).**

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