



**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**

STEVE SACKS, MD

**Respondent Name**

NEW HAMPSHIRE INSURANCE CO

**MFDR Tracking Number**

M4-15-1691-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

FEBRUARY 4, 2015

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "We submitted a request for reconsideration to New Hampshire Insurance on October 15, 2014, this request was in response to a \$160.15 reduction of the \$928.31 for the EMG/NCV Designated Doctor Referred performed on February 19, 2014. Unfortunately our request was denied and we are seeking the balance owed to us."

**Amount in Dispute:** \$745.90

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "it is the carrier's position that the additional payment of \$720.90 is recommended. However, the carrier is in receipt of an Internal Revenue Service (IRS) Notice of Levy on wages, salary and other income serviced to this provider."

**Response Submitted by:** AIG

**SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 19, 2014	CPT Code 99203 New Patient Office Visit	\$0.00	\$0.00
	CPT Code 95886 (X2) Needle EMG	\$282.24	\$270.10
	CPT Code 95911 Nerve Conduction Studies (9-10)	\$438.66	\$333.10
	HCPCS Code A4556 Electrodes	\$25.00	\$0.00
TOTAL		\$745.90	\$603.20

**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**

1. Texas Labor Code 413.031, effective September 1, 2011 outlines the role of medical fee dispute resolution.
2. 28 Texas Administrative Code §133.307, effective June 1, 2012 sets out the procedures for resolving medical fee disputes.
3. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - W1-Workers compensation state fee schedule adjustment.
  - 16-Claim/service lacks information or has submission/billing error(s) which is needed for adjudication.
  - 150-Payer deems the information submitted does not support this level of service.
  - 97-Payment is included in the allowance for another service/procedure.
  - U058-Procedure code should not be billed without appropriate primary procedure.
  - VF01-Documentation does not support level of service billed.
  - B291-This is a bundled or non covered procedure based on Medicare guidelines; no separate payment allowed.
  - P300-The amount paid reflects a fee schedule reduction.
  - Z710-The charge for this procedure exceeds the fee schedule allowance.

## **Issues**

1. What is the role of medical dispute resolution?
2. Does the documentation support billing CPT codes 95886?
3. Does the documentation support billing CPT code 95911?
4. Is the benefit for HCPCS code A4556 included in the benefit of another service billed on the disputed date? Is the requestor entitled to reimbursement for HCPCS code A4556?

## **Findings**

1. The respondent contends that "it is the carrier's position that the additional payment of \$720.90 is recommended. However, the carrier is in receipt of an Internal Revenue Service (IRS) Notice of Levy on wages, salary and other income serviced to this provider.

Texas Labor Code 413.031(c) outlines the role of medical dispute resolution. It states "In resolving disputes over the amount of payment due for services determined to be medically necessary and appropriate for treatment of a compensable injury, the role of the division is to adjudicate the payment given the relevant statutory provisions and commissioner rules." Therefore, the review of the disputed services will be limited to the authority outlined in Texas Labor Code 413.031(c).

2. The American Medical Association Current Procedural Terminology (CPT) defines code 95886 as "Needle electromyography, each extremity, with related paraspinal areas, when performed, done with nerve conduction, amplitude and latency/velocity study; complete, five or more muscles studied, innervated by three or more nerves or four or more spinal levels (List separately in addition to code for primary procedure)."

The respondent denied reimbursement for CPT code 95886 based upon a lack of information or billing errors. A review of the submitted report supports billed service; therefore, reimbursement is recommended.

28 Texas Administrative Code §134.203(c)(1)(2), which states "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.

(1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32.

(2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of \$50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual

percentage increase of 2.1 percent, resulting in the \$51.90 (with the exception of surgery) Division conversion factor in 2007.”

To determine the MAR the following formula is used: (DWC Conversion Factor/Medicare Conversion Factor) X Participating Amount = Maximum Allowable Reimbursement (MAR).

The 2014 DWC conversion factor for this service is 55.75.

The Medicare Conversion Factor is 35.8228

Review of Box 32 on the CMS-1500 the services were rendered in zip code 78415, which is located in Corpus Christi, Texas. Therefore, the Medicare participating amount will be based on the reimbursement for “Rest of Texas”.

The Medicare participating amount for CPT code 95886 is \$86.78.

Using the above formula, the Division finds the MAR is \$135.05. The requestor billed for two units; therefore, \$135.05 X 2 = \$270.10. The respondent paid \$0.00. As a result, the Division finds the requestor is due \$270.10 additional reimbursement.

3. 28 Texas Administrative Code §134.203(a)(5), states “‘Medicare payment policies’ when used in this section, shall mean reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies as set forth in the Centers for Medicare and Medicaid Services (CMS) payment policies specific to Medicare.”

CPT code 95911 is defined as “Nerve conduction studies; 9-10 studies.”

The respondent denied reimbursement based upon the documentation did not support the level of service billed.

A review of the submitted report finds that the requestor supports billing 10 studies; therefore, reimbursement is recommended.

The Medicare Participating amount is \$214.04.

Using the above formula, the Division finds that the MAR is \$333.10. The respondent paid \$0.00. As a result, the Division finds the requestor is due reimbursement of \$333.10.

4. According to the explanation of benefits, the respondent denied reimbursement for HCPCS code A4556 based upon reason code “97.”

HCPCS Code A4556 is defined as “Electrodes (e.g., apnea monitor), per pair.”

Per Medicare guidelines, [Transmittal B-03-020](#), effective February 28, 2003 if Durable Medical Equipment Prosthetics Orthotics and Supplies (DMEPOS) HCPCS codes are incidental to the physician service, it is not separately payable. A review of the submitted documentation does not support a separate service to support billing HCPCS code A4556. As a result, reimbursement is not recommended.

### **Conclusion**

For the reasons stated above, the Division finds that the requestor has established that reimbursement is due for the specified services. As a result, the amount ordered is \$603.20.

### ***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 \$603.20 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

\_\_\_\_\_  
03/31/2015

## ***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.**