



**Texas Department of Insurance**

**Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645  
512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

**MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

**GENERAL INFORMATION**

**Requestor Name**

STEVE SACKS, MD

**Respondent Name**

NEW HAMPSHIRE INSURANCE CO

**MFDR Tracking Number**

M4-15-2349-01

**Carrier's Austin Representative**

Box Number 19

**MFDR Date Received**

MARCH 30, 2015

**REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "We submitted a request for reconsideration to Liberty Mutual on February 27, 2015 this request, was in response to a \$600.93 payment of the \$929.87 for the EMG/NCV Designated Doctor Referred performed on January 15, 2015. Unfortunately our request was denied and we are seeking the balance owed to us."

**Amount in Dispute:** \$328.94

**RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The unit of Code 95886 billed for the right upper extremity documented only three muscles studies. The second unit of Code 95886 was not documented in the report. HCPCS Code A4556, electrodes per pair, is not separately payable per Medicare Guidelines."

**Response Submitted by:** Liberty Mutual Insurance Co.

**SUMMARY OF FINDINGS**

| Dates of Service | Disputed Services                                 | Amount In Dispute | Amount Due |
|------------------|---|-------------------|------------|
| January 15, 2015 | CPT Code 99204<br>New Patient Office Visit        | \$11.28           | \$0.00     |
|                  | CPT Code 95886 (X2)<br>Needle EMG                 | \$289.90          | \$0.00     |
|                  | CPT Code 95911<br>Nerve Conduction Studies (9-10) | \$3.58            | \$0.00     |
|                  | HCPCS Code A4556<br>Electrodes                    | \$25.00           | \$0.00     |
| TOTAL            |   | \$328.94          | \$0.00     |

**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**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.203, 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:
  - P300-Charge exceeds fee schedule/maximum allowable/legislated fee arrangement.
  - Z710-The charge for this procedure exceeds the fee schedule allowance.
  - U630-Procedure code not separately payable under Medicare and-or fee schedule guidelines.
  - X901-Documentation does not support level of service billed.
  - B13-Previously paid. Payment for this claim/service may have been provided in a previous payment.
  - 193-Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
  - W3-Additional payment made on appeal/reconsideration.

## **Issues**

1. Does the documentation support billing CPT code 95886 (X2)?
2. Is the requestor due additional reimbursement for CPT codes 99204, 95886 and 95911?
3. 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. According to the submitted explanation of benefits, the respondent reduced the payment for CPT code 95886 (X2) based upon reason code "X901".

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."

The American Medical Association (AMA) 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 contends that reimbursement is not due because "The unit of Code 95886 billed for the right upper extremity documented only three muscles studies. The second unit of Code 95886 was not documented in the report."

The Division finds that the requestor did not support billing code 95886 per code descriptor for bilateral EMG studies; therefore, reimbursement is not recommended.

2. According to the submitted explanation of benefits, the respondent paid for the disputed office visit and nerve conduction studies based upon reason code "Z710".

To determine if the requestor is due additional reimbursement for CPT codes 99204 and 95911, the Division refers to 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 2015 DWC conversion factor for this service is 56.2.

The Medicare Conversion Factor is 35.7547

Review of Box 32 on the CMS-1500 the services were rendered in zip code 77304, which is located in Conroe, Texas. Therefore, the Medicare participating amount will be based on the reimbursement for "Rest of Texas".

Using the above formula, the Division finds the following:

| Code  | Medicare Participating Amount | Maximum Allowable | Carrier Paid | Due    |
|-------|-------------------------------|-------------------|--------------|--------|
| 99204 | \$158.81                      | \$249.62          | \$249.62     | \$0.00 |
| 95911 | \$223.50                      | \$351.30          | \$351.31     | \$0.00 |

3. According to the explanation of benefits, the respondent denied reimbursement for HCPCS code A4556 based upon reason code "B291."

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 not established that reimbursement is due for the specified services. As a result, the amount ordered is \$0.00.

**ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

**Authorized Signature**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

\_\_\_\_\_  
05/21/2015

**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.**