



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

DALLAS TESTING, INC

Respondent Name

LIBERTY INSURANCE CORP

MFDR Tracking Number

M4-18-3303-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

MAY 14, 2018

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Patient had a hearing and the carrier was ordered to pay all unpaid services with interest. I have included a copy of the decision and order."

Amount in Dispute: \$566.51

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The compensable injury is for the Right Upper Extremity (RUE). The Left Upper Extremity was done for comparable studies. The provider was paid only for the compensable RUE injury as comparable studies done on the opposite extremity LUE is considered non-compensable...CPT 95886 was supported in the records but is an 'add on code' per CPT definition and is only payable if the primary code (95912) is paid."

Response Submitted by: Liberty Mutual Insurance.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 30, 2017	CPT Code 95886 (X1) Needle EMG	\$147.22	\$0.00
	CPT Code 95912 Nerve Conduction Studies (11-12)	\$419.29	\$0.00
TOTAL		\$566.51	\$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 §133.305 sets out the procedure for Medical Fee Dispute Resolution.
3. 28 Texas Administrative Code §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
4. 28 Texas Administrative Code §141.1 sets out the procedures for Requesting and Setting a Benefit Review Conference.
5. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 219, X206, 193, W3-The service(s) is for a condition(s) which is not related to the covered work related injury. For reconsideration of charges, please submit appeal with EOP and documentation to support the relatedness of services rendered to the work related injury.
 - U058-Procedure code should not be billed without appropriate primary procedure.

Issues

1. Does CPT code 95912 rendered on November 30, 2017 contain unresolved issues of Compensability?
2. Did the requestor submit documentation to support that the Compensability issue was resolved prior to the submission of the dispute?
3. What is the appropriate dispute resolution process for resolving the issue of Compensability?
4. Is the dispute for code 95912 eligible for review?
5. Is the requestor due reimbursement for CPT code 95886?

Findings

1. According to the explanation of benefits, the respondent denied reimbursement for CPT code 95912 based upon reason code “219, X206, 193, W3-The service(s) is for a condition(s) which is not related to the covered work related injury. For reconsideration of charges, please submit appeal with EOP and documentation to support the relatedness of services rendered to the work related injury.”

The respondent contends that reimbursement is not due because “The compensable injury is for the Right Upper Extremity (RUE). The Left Upper Extremity was done for comparable studies. The provider was paid only for the compensable RUE injury as comparable studies done on the opposite extremity LUE is considered non-compensable.”

The requestor submitted a copy of a March 30, 2017 Benefit Review Conference, (BRC), decision that found that the claimant had sustained a compensable injury to the right arm but did not comment on the extent of the injury.

The division finds that the dispute regarding CPT code 95912 contains unresolved issues of Compensability/Extent of Injury.

2. 28 Texas Administrative Code §133.305(b) requires that extent-of-injury disputes be resolved prior to the submission of a medical fee dispute for the same services. 28 Texas Administrative Code §133.307(f) (3) (C) provides for dismissal of a medical fee dispute if the request for the medical fee dispute contains an unresolved extent-of-injury dispute for the claim. 28 Texas Administrative Code §133.307(c) (2) (K) provides that a request for a medical fee dispute must contain a copy of each EOB related to the dispute. The dispute is not eligible for review by MFDR until final adjudication of the extent/compensability issues.
3. The Division hereby notifies the requestor that the appropriate process to resolve the issue(s) of Compensability including disputes or disagreements among the parties over whether the medical services in dispute were related to the compensable injury, may be found in Chapter 410 of the Texas Labor Code, and 28 Texas Administrative Code §141.1.
4. 28 Texas Administrative Code §133.307(f) (3) provides that a dismissal is not a final decision by the Texas Department of Insurance, Division of Workers’ Compensation (“Division”). The medical fee dispute may be submitted for review as a new dispute that is subject to the requirements of 28 Texas Administrative Code §133.307. 28 Texas Administrative Code §133.307 (c)(1)(B) provides that a request for medical fee dispute

resolution may be filed not later than 60 days after a requestor has received the final decision, inclusive of all appeals, on the Compensability dispute. The division finds that CPT code 95912 rendered on November 30, 2017 is not eligible for review.

5. According to the explanation of benefits, the respondent denied reimbursement for code 95886 based upon "U058-Procedure code should not be billed without appropriate primary procedure."

The respondent wrote, "CPT 95886 was supported in the records but is an 'add on code' per CPT definition and is only payable if the primary code (95912) is paid."

On the disputed date of service, the requestor billed CPT codes 95912 and 95886.

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 95886 is described 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)."

CPT code 95886 is classified as an "add-on code".

The CMS Policy Manual, Add-On-Code Edits, Change Request 7501, identifies three types of "add-on-codes".

In this manual, code 95886 is classified as a Type I "add-on code." The NCCI edits manual indicates, "Type I - A Type I add-on code has a limited number of identifiable primary procedure codes. The CR lists the Type I add-on codes with their acceptable primary procedure codes. A Type I add-on code, **with one exception**, is eligible for payment if one of the listed primary procedure codes is also eligible for payment to the same practitioner for the same patient on the same date of service. Claims processing contractors must adopt edits to assure that Type I add-on codes are never paid unless a listed primary procedure code is also paid." In this case, CPT code 95912 is the primary code and 95886 is the "add-on-code". As stated above, an extent of injury issue exists for code 95912. The reimbursement of code 95886 is dependent on reimbursement of code 95912. Because code 95912 has unresolved extent issues reimbursement for code 95886 cannot be recommended.

Conclusion

As stated above, the Division finds that the dispute for CPT code 95912 is not eligible for review per 28 Texas Administrative Codes §133.307 and §133.305 because of unresolved issues of compensability/extent of injury. The division further finds that reimbursement for CPT code 95886 is dependent on the reimbursement of code 95912. Because code 95912 has unresolved compensability/extent of injury issues, reimbursement of code 95886 cannot be recommended.

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

06/13/2018

Date

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, 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 MFDR 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.