



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

DONALD M. MCPHAUL, MD

Respondent Name

LIBERTY INSURANCE CORP

MFDR Tracking Number

M4-21-2015-01

Carrier's Austin Representative

Box Number 01

MFDR Date Received

JULY 12, 2021

REQUESTOR'S POSITION SUMMARY

"DESIGNATED DOCTOR REFERRED TESTING INCORRECT REDUCTION...The carrier has not paid this claim in accordance and compliance with TDI-DWC Rule 133 and 134."

Amount in Dispute: \$447.83

RESPONDENT'S POSITION SUMMARY

"Bill for date of service 12/09/2020 has been processed for payment to Dr. McPhaul for CPT codes 95886 x1...and 95911....99204-26 is denied as the charge for this procedure was not paid since the value of this procedure is included/bundled within the value of another procedure performed."

Response Submitted By: Liberty Mutual Insurance Co.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
December 9, 2020	CPT Code 99204-26 New Patient Office Visit	\$279.53	\$0.00
	CPT Code 95886 (X2) Needle EMG	\$168.30	\$168.30
	CPT Code 95911 Nerve Conduction Studies	\$0.00	\$0.00
TOTAL		\$447.83	\$168.30

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 (DWC).

Background

1. 28 Texas Administrative Code (TAC) §133.307, effective February 22, 2021, sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.203, effective March 1, 2008, sets the reimbursement guidelines for the disputed service.
3. The respondent reduced / denied reimbursement for the disputed services based upon the following claim adjustment reason codes:
4. The services in dispute were reduced / denied by the respondent with the following reason code:
 - U301-This item has been reviewed on a previously submitted bill, or is currently in process. Notification of decision has been previously provided or will be issued upon completion of our review.
 - 876-Fee schedule amount is equal to the charge.
 - 243-The charge for this procedure was not paid since the value of this procedure is included/bundled within the value of another procedure performed.
 - 275-The charge was disallowed; as the submitted report does not substantiate the service being billed.
 - P12-Workers compensation jurisdictional fee schedule adjustment.
 - 269-This billing is for a service unrelated to the work illness or injury.

Issues

Is the requestor entitled to additional reimbursement for the disputed services rendered on December 9, 2020?

Findings

1. The requestor is seeking medical fee dispute resolution in the amount of \$447.83 for CPT codes 99204-26, and 95886 rendered on December 9, 2020.
2. The respondent denied reimbursement for CPT code 99204-26 based upon “243-The charge for this procedure was not paid since the value of this procedure is included/bundled within the value of another procedure performed.”

The fee guidelines for disputed services are found in 28 TAC §134.203.

28 TAC §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 99204 is described as “Office or other outpatient visit for the evaluation and management of a new patient, which requires these 3 key components: A comprehensive history; A comprehensive examination; Medical decision making of moderate complexity. Counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the presenting problem(s) are of moderate to high severity. Typically, 45 minutes are spent face-to-face with the patient and/or family.”

The requestor appended modifier “26 Professional component” to code 99204.

Modifier “26” is not the appropriate modifier to identify a separate identifiable E&M service.

On the disputed date of service, the requestor billed for CPT code 99204-26, 95911, and 95886. Per 28 TAC §134.203(a)(5), the DWC referred to Medicare’s coding and billing policies. Per Medicare fee schedule, CPT code 95886 has a global surgery period of “ZZZ” and code 95911 has “XXX.”

The National Correct Coding Initiative Policy Manual, effective January 1, 2020, Chapter I, General Correct Coding Policies, section D, states:

Medicare Global Surgery Rules define the rules for reporting evaluation and management (E&M) services with procedures covered by these rules. This section summarizes some of the rules.

All procedures on the Medicare Physician Fee Schedule are assigned a global period of 000, 010, 090, XXX, YYY, ZZZ, or MMM. The global concept does not apply to XXX procedures...All procedures with a global period of ZZZ are related to another procedure, and the applicable global period for the ZZZ code is determined by the related procedure...

Since NCCI PTP edits are applied to same-day services by the same provider to the same beneficiary, certain Global Surgery Rules are applicable to NCCI. An E&M service is separately reportable on the same date of service as a procedure with a global period of 000, 010, or 090 under limited circumstances...

If a procedure has a global period of 000 or 010 days, it is defined as a minor surgical procedure. In general, E&M services performed on the same date of service as a minor surgical procedure are included in the payment for the procedure. The decision to perform a minor surgical procedure is included in the payment for the minor surgical procedure, and shall not be reported separately as an E&M service. However, a significant and separately identifiable E&M service unrelated to the decision to perform the minor surgical procedure is separately reportable with modifier 25. The E&M service and minor surgical procedure do not require different diagnoses. If a minor surgical procedure is performed on a new patient, the same rules for reporting E&M services apply. The fact that the patient is "new" to the provider is not sufficient alone to justify reporting an E&M service on the same date of service as a minor surgical procedure. NCCI contains many, but not all, possible edits based on these principles...

Procedures with a global surgery indicator of "XXX" are not covered by these rules. Many of these "XXX" procedures are performed by physicians and have inherent pre-procedure, intra-procedure, and post-procedure work usually performed each time the procedure is completed. This work shall **not** be reported as a separate E&M code. Other "XXX" procedures are not usually performed by a physician and have no physician work relative value units associated with them. A physician shall **not** report a separate E&M code with these procedures for the supervision of others performing the procedure or for the interpretation of the procedure. With most "XXX" procedures, the physician may, however, perform a significant and separately identifiable E&M service on the same date of service which may be reported by appending modifier 25 to the E&M code. This E&M service may be related to the same diagnosis necessitating performance of the "XXX" procedure, but cannot include any work inherent in the "XXX" procedure, supervision of others performing the "XXX" procedure, or time for interpreting the result of the "XXX" procedure. Appending modifier 25 to a significant, separately identifiable E&M service when performed on the same date of service as an "XXX" procedure is correct coding."

Per Medicare policy, "This E&M service may be related to the same diagnosis necessitating performance of the "XXX" procedure but cannot include any work inherent in the "XXX" procedure, supervision of others performing the "XXX" procedure, or time for interpreting the result of the "XXX" procedure."

A review of the submitted report does not support "a significant, separately identifiable E/M service above and beyond the other service provided," and "documentation that satisfies the relevant criteria for the respective E/M service to be reported." The DWC finds the requestor's documentation does not support the required 3 key components for code 99204, specifically the medical decision making component. The interpretation of the EMG/NCV is the professional component of those procedures and cannot be counted as a key component of code 99204; therefore, reimbursement is not recommended.

3. The respondent paid \$168.30 for one unit of CPT code 95886 and denied the second unit based upon "269- This billing is for a service unrelated to the work illness or injury."

28 TAC §133.307(d)(2)(H) states, "If the medical fee dispute involves compensability, extent of injury, or liability, the insurance carrier must attach any related Plain Language Notice in accordance with §124.2 of this title (concerning Insurance Carrier Reporting and Notification Requirements)."

The DWC finds the respondent did not submit a copy of the Plain Language Notice in accordance with §124.2

to support the denial based upon unrelated to work injury; therefore, reimbursement per the fee guideline is recommended.

Per 28 TAC §134.203(c)(1)(2), "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 2020 DWC conversion factor for this service is 60.32.

The Medicare Conversion Factor is 36.0896

Review of Box 32 on the CMS-1500 the services were rendered in Dallas, Texas.

The Medicare participating amount for code 95886 in Dallas , Texas is \$100.78.

CPT code 95886 is not subject to multiple procedure rule discounting.

Using the above formula, the MAR is \$168.44 or less. The requestor is seeking \$168.30 X 2 = \$336.60. The respondent paid \$168.30. As a result, reimbursement of \$168.30 is recommended.

Conclusion

For the reasons stated above, the DWC finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$168.30.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Section 413.031 and 413.019 (if applicable), the division has determined the requestor is entitled to additional reimbursement for the disputed services. The division hereby ORDERS the respondent to remit to the requestor \$168.30, 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

8/02/2021
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 DWC within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the DWC 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 DWC. **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.