TDI Division of Workers' Compensation
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Medical Fee Dispute Resolution Findings and Decision

General Information

Requestor Name
Donald McPhaul, MD

Respondent Name
LM Insurance Corp

MFDR Tracking Number
M4-23-1651-01

Carrier's Austin Representative
Box Number 1

DWC Date Received
March 14, 2023

Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
July 13, 2022	99205	$413.44	$0.00
	95886	$0.00	$0.00
	95911	$0.00	$0.00
	Total	$413.44	$0.00

Requestor's Position

"Please note from the attached testing results & supporting documentation that all components for this claim were performed and billed appropriately using the TDI-DWC Fee Guidelines and should not be reduced."

Amount in Dispute: $413.44

Respondent's Position

"LMI finds that the modifier 25 is not supported. Purpose the exam was for EMG NCS. All services performed in the visit is related to the preservice, intra service and post service. It is expected for the provider to review the medical, diagnostic, surgical history. There was not service in the visit that is above and beyond the standard care prior to during or post the EMG to warrant usage of modifier 25."

Response Submitted by: Liberty Mutual

Findings and Decision

Authority

This medical fee dispute is decided according to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation (DWC).

Statutes and Rules

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.

2. 28 TAC §134.203, sets out the fee guidelines for reimbursement of professional medical services provided in the Texas workers' compensation system.

Denial Reasons

The insurance carrier denied the payment for the disputed services with the following claim adjustment codes:

- 63 – The evaluation and management visit is not beyond the usual pre/postservice.
- 193 – Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 876 – Fee schedule amount is equal to the charge

Issues

1. Is respondent's denial supported?

Findings

1. The requestor is seeking reimbursement of Code 99205 for date of service July 13, 2022. The insurance carrier denied the claim as service included with testing procedures performed on the same day.,

   DWC Rule 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 99205 is described as "Office or other outpatient visit for the evaluation and management of a new patient which requires a medically appropriate history and/or examination and high medical decision making."

   Review of the submitted medical bill found the requestor appended modifier "25 Significant, Separately Identifiable Evaluation and Management Service by the Same Physician or Other Qualified Health Care Professional on the Same Day of the Procedure or Other Service" to code 99205.

Modifier "25" is defined as "It may be necessary to indicate that on the day a procedure or service identified by a CPT code was performed, the patient's condition required a significant, separately identifiable E/M service above and beyond the other service provided or beyond the usual preoperative and postoperative care associated with the procedure that was performed. A significant, separately identifiable E/M service is defined or substantiated by documentation that satisfies the relevant criteria for the respective E/M service to be reported (see Evaluation and Management Services Guidelines for instructions on determining level of E/M service). The E/M service may be prompted by the symptom or condition for which the procedure and/or service was provided. As such, different diagnoses are not required for reporting of the E/M services on the same date. This circumstance may be reported by adding modifier 25 to the appropriate level of E/M service."

The medical bill for date of service July 13, 2022, listed CPT codes 99204-25, 95886, and 95911.

Per 28 TAC §134.203(a)(5) shown above, the DWC referred to Medicare's coding and billing policies.

Per Medicare fee schedule, CPT code 95886 has a global surgery period of "ZZZ." The National Correct Coding Initiative Policy Manual, effective January 1, 2022, Chapter I, General Correct Coding Policies, section D, at www.cms.gov, states in pertinent parts:

> *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…*
>
> *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 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.

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 was not supported.

The DWC finds the requestor's documentation does not support the high-level medical decision making or the time spent performing the evaluation.

The interpretation of the EMG/NCV is the professional component of those procedures and cannot be counted as a key component of code 99205; therefore, reimbursement is not recommended.

Conclusion

The outcome of this medical fee dispute is based on the evidence presented by the requestor and the respondent at the time of adjudication. Though all evidence may not have been discussed, it was considered.

DWC finds the requester has not established that additional reimbursement is due.

Order

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is not entitled to additional reimbursement for the disputed services.

Authorized Signature

		April 10, 2023
Signature	Medical Fee Dispute Resolution Officer	Date

Your Right to Appeal

Either party to this medical fee dispute has a right to seek review of this decision under 28 TAC §133.307, which applies to disputes filed on or after **June 1, 2012**.

A party seeking review must submit DWC Form-045M, *Request to Schedule, Reschedule, or Cancel a Benefit Review Conference to Appeal a Medical Fee Dispute Decision (BRC-MFD)* and follow the instructions on the form. You can find the form at www.tdi.texas.gov/forms/form20numeric.html. DWC must receive the request within **20 days** of when you receive this decision. You may fax, mail, or personally deliver your request to DWC using the contact information on the form or the field office handling the claim. If you have questions about DWC Form-045M, please call CompConnection at 1-800-252-7031, option 3 or email CompConnection@tdi.texas.gov.

The party seeking review of the MFDR decision must deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with DWC. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** with any other required information listed in 28 TAC §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 1-800-252-7031, opción 3 o correo electronico CompConnection@tdi.texas.gov.