



Medical Fee Dispute Resolution Findings and Decision General Information

Requestor Name

Donald McPhaul, M.D.

Respondent Name

Zenith Insurance Co.

MFDR Tracking Number

M4-23-1803-01

Carrier's Austin Representative

Box Number 47

DWC Date Received

March 23, 2023

Summary of Findings

Date(s) of Service	Disputed Services	Amount in Dispute	Amount Due
04/06/2022	99205	\$403.92	\$0.00
04/06/2022	95886	\$0.00	\$0.00
04/06/2022	95912	\$0.00	\$0.00
Total		\$403.92	\$0.00

Requestor's Position

"...Please note that an office consultation/examination was performed and documented separately on this date of service and billed accordingly with the appropriate modifier... an examination was performed and documented as a Detailed Examination component and billed as 99202. See report for all 6 elements required for a general multi-system examination. Per the attached documentation all components have been met for CPT Code 99202... "

Amount in Dispute: \$403.92

Respondent's Position

"... CPT code 99205-25 was billed in combination with code 95912 (nerve conduction studies; 11-12 studies) that has global surgery indicator "XXX". Medicare indicates that E/M should not be billed with "XXX" procedures unless the provider performs 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. Dr. McPhaul's medical report shows that the history, the examination and the medical decision-making are related to the reason for the nerve conduction studies. 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, no additional payment is due for the disputed code 99205-25 as the provider's report does not support a significant and separately identifiable E&M service unrelated to the decision to perform 95912 (XXX procedure)... "

Response Submitted by: Zenith Insurance Co.

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 (TAC) §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 TAC §134.203 sets out the fee guideline for professional medical services.
3. 28 TAC §133.210 sets out medical documentation requirements for reimbursement of medical services.

Denial Reasons

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

- 217 TX – The value of this procedure is included in the value of another procedure performed on this date.
- 97 – The benefit for this service is included in the payment/allowance for another service that has already been adjudicated.
- W3 – In accordance with TDI_DWC Rule 134.804, this bill has been identified as a request for reconsideration or appeal.
- EOR reason notes reads: 1) 99205 inclusive to 95912. 2) The documentation does not support a significant and separately identifiable E/M service.

Issues

1. What rules apply to the disputed services?
2. Is the requestor entitled to reimbursement for CPT Code 99205?

Findings

Note that CPT Codes 95886 and 95912, were included on the DWC60 form and on the same bill with disputed service code 99205-25, have been reimbursed by the respondent and are not in dispute. Therefore, only CPT code 99205 will be addressed and adjudicated.

The division further notes that the requester's position statement references CPT code 99202, not

the service in dispute, CPT code 99205. Thus, the requester's position statement will not be considered.

1. The dispute concerns an evaluation and management service billed under CPT code 99205. The division finds that 28 TAC §133.210(c)(1) applies to reimbursement of CPT code 99205.

28 (TAC) §133.210(c)(1) sets out medical documentation requirements, stating in pertinent part "In addition to the documentation requirements of subsection (b) of this section, medical bills for the following services shall include the following supporting documentation: the two highest Evaluation and Management office visit codes for new and established patients: office visit notes/report satisfying the American Medical Association (AMA) requirements for use of those CPT codes..." As CPT code 99205 is one of the two highest evaluation and management codes, the division finds that (TAC) §133.210(c)(1) required the requestor to submit supporting documentation to satisfy American Medical Association requirements.

The division further finds that 28 TAC §134.203(b)(1) applies to reimbursement of CPT code 99205.

28 TAC §134.203(b)(1) states, "For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

2. The requestor is seeking reimbursement in the amount of \$403.92 for CPT Code 99205 rendered on April 6, 2022.

- CPT Code 99205 is defined 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 level of medical decision making (MDM). When using time for code selection, 60-74 minutes of total time is spent on the date of the encounter."
- The American Medical Association CPT Code and Guideline Changes, effective January 1, 2021, can be found at: <https://www.ama-assn.org/system/files/2019-06/cpt-office-prolonged-svs-code-changes.pdf>. In summary, CPT 99205 documentation must contain two out of three of the following elements: 1) high level of number and complexity of problems addressed 2) extensive level of amount and/or complexity of data to be reviewed and analyzed 3) high risk of morbidity/mortality of patient management OR must document 60-74 minutes of total time spent on the date of patient encounter.
- An interactive Evaluation and Management (E&M) scoresheet tool is available at: <https://www.novitas-solutions.com/webcenter/portal/MedicareJL/EMScoreSheet>

A review of submitted medical documentation finds that a high level of MDM was not met in the elements of 1) number and complexity of problems addressed 2) extensive level of amount and/or complexity of data reviewed and analyzed 3) high risk of morbidity/mortality of patient management. The division finds documentation of time spent on E&M service was inherent to the performance and interpretation of the nerve conduction study, CPT code 95912, billed and reimbursed on the same date. Therefore, documented time spent will not be considered in the adjudication of this dispute.

- Per CMS article, found at:

[Article - Billing and Coding: Nerve Conduction Studies and Electromyography \(A57478\) \(cms.gov\)](#),

"I. Coding Guidelines A.) Evaluation/Management (E/M) 1) Usually an E&M service is included in the exam performed just prior to and during nerve conduction studies and/or electromyography. If the E&M service is a separate and identifiable service, the medical record must document medical necessity and the CPT code must be bill with a modifier 25."

- The Division applies Medicare's coding and billing policies in accordance with 28 TAC §134.203 as indicated above. Per Medicare Fee Schedule, CPT code 95912 has a global period of XXX.

According to National Correct Coding Initiative Policy Manual for Medicare Services, revised 5/1/2022, "... 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... 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..."

Review of submitted medical documentation finds that disputed CPT code 99205 rendered on April 6, 2022, was inherent to the performance of CPT code 95912 billed on same date. Submitted medical record does not support charge for a distinctly separate identifiable office visit.

- The division finds that the requester is not entitled to reimbursement for CPT code 99205 rendered on April 6, 2022.

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.

The Division finds the requester has not established that reimbursement is due.

ORDER

Under Texas Labor Code §§413.031, the Division has determined the requestor is entitled to \$0.00 reimbursement for the disputed services.

Authorized Signature

_____	_____	May 3, 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 electrónico CompConnection@tdi.texas.gov.