

LIBERTY MUTUAL INSURANCE	§	BEFORE THE STATE OFFICE
COMPANY,	§	
Petitioner	§	
	§	
VS.	§	
	§	OF
EAST HARRIS COUNTY ORTHOPEDIC	§	
ASSOCIATES AND TEXAS WORKERS'	§	
COMPENSATION COMMISSION,	§	
Respondents	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

This is a dispute over \$3,262.00 in charges for three surgical CPT codes. The Administrative Law Judge concludes the Petitioner, Liberty Mutual Insurance Company (LMIC), should be required to reimburse Respondent East Harris County Orthopedic Associates (East Harris) for two of those codes (CPT Codes 22830 and 22852), in the amount of \$2,301.00. LMIC should not be required to reimburse East Harris for the third code (CPT Code 15734).

I. Discussion

The Claimant sustained a compensable back injury____. Before the dates of service in dispute in this case, he underwent a lumbar fusion with instrumentation that proved to be unsuccessful or only partly successful. Later, on October 30, 2001, Eric Sheffey, M.D., of East Harris performed additional surgical procedures on the Claimant, including a lumbar laminectomy (CPT Code 63042).

LMIC paid East Harris for several of the October 30, 2001, procedures, but refused to pay for three:

<u>CPT Code</u>	<u>Description</u>	<u>MAR</u>
22830	exploration of spinal fusion	\$1,699.00
15734	creation of muscle flap	961.00
22852	removal of instrumentation	<u>632.00</u>
Total:		\$3,262.00

For each of those codes, LMIC claimed the procedure was global to CPT Code 63042, and therefore should not be separately reimbursed. East Harris filed a Medical Dispute Resolution request. The Medical Review Division (MRD) of the Texas Workers' Compensation Commission decided in favor of East Harris and ordered LMIC to reimburse East Harris \$3,262.00 for those procedures. LMIC then filed a request for a hearing before the State Office of Administrative Hearings (SOAH).

The hearing was held January 22, 2003, with ALJ Henry D. Card presiding and representatives of LMIC and East Harris participating. The certified record that was before the MRD was admitted into evidence. The hearing was adjourned the same day.

Because LMIC is the Petitioner in the case, it bears the burden of proof. 28 TEX. ADMIN. CODE (TAC) §148.21(h).

CPT Code 22830 - Exploration of Spinal Fusion

CPT Code 63042 consists of:

Laminotomy (hemilaminectomy), with decompression of nerve root(s), including partial facetectomy, foraminotomy and or excision of herniated disks, re-exploration, lumbar.

According to LMIC's clinical review specialist, that definition, particularly the inclusion of the term "re-exploration," encompasses CPT Code 22830.

In East Harris' favor, the record includes a letter from the CPT Information Services of the American Medical Association, stating that CPT Code 22830 requires a significant amount of work and is intended to be reported separately when performed with other spinal surgery procedures. The letter does not specifically address the relationship between CPT Code 2830 and CPT Code 63042, however.

LMIC did not show that the "re-exploration" mentioned in the definition of CPT Code 63042 is the same as the "exploration of spinal fusion" covered by CPT Code 22830 and performed in this case. LMIC did not meet its burden of proof on this issue in this case, and should be ordered to reimburse East Harris \$1,699.00 for that code.

CPT Code 15734 - Creation of Muscle Flap

LMIC presented a letter from Bernie L. McKaskill, M.D., an orthopaedic surgeon. Dr. McKaskill reviewed the operative notes and stated that the activity performed by Dr. Sheffey, and billed under this CPT code, "is commonly performed by surgeons and should be billed as a part of the primary code for this procedure."

East Harris provided no documents to refute Dr. McKaskill's opinion. LMIC proved that the procedures charged to CPT Code 15734 in this case were global to CPT Code 63042 and should not be reimbursed separately.

CPT Code 22852 - Removal of Instrumentation

LMIC's clinical review specialist contended that removal of instrumentation may be charged separately only if the removal was difficult and required extra time and work. Neither the definition of that code nor the definition of CPT Code 63042 contains that restriction, however. Moreover, a laminotomy would not necessarily require the removal of instrumentation unless, as in this case, a fusion had been performed previously. LMIC did not meet its burden of proof on this issue in this case, and should be ordered to reimburse East Harris \$632.00 for this code.

Summary

LMIC should be ordered to reimburse East Harris \$2,301.00 for CPT Codes 22830 and 22852. It should not be ordered to reimburse East Harris for CPT Code 15734.

II. Findings of Fact

1. The Claimant sustained a compensable back injury on_____.
2. The Claimant underwent a lumbar fusion with instrumentation that proved to be unsuccessful or only partly successful.
3. On October 30, 2001, Eric Sheffey, M.D., of East Harris performed additional surgical procedures on the Claimant, including a lumbar laminectomy (CPT Code 63042).
4. LMIC paid East Harris for several of the October 30, 2001, procedures, but refused to pay for three:

<u>CPT Code</u>	<u>Description</u>	<u>MAR</u>
22830	exploration of spinal fusion	\$1,699.00
15734	creation of muscle flap	961.00
22852	removal of instrumentation	<u>632.00</u>
Total:		\$3,262.00

5. For each of the disputed codes, LMIC claimed the procedure was global to CPT Code 63042, and therefore should not be separately reimbursed.
6. East Harris filed a Medical Dispute Resolution request.
7. The MRD decided in favor of East Harris and ordered LMIC to reimburse East Harris \$3,262.00 for the disputed procedures.
8. LMIC filed a request for a hearing before SOAH.
9. The hearing was held January 22, 2003, with ALJ Henry D. Card presiding and representatives of LMIC and East Harris participating. The hearing was adjourned the same day.
10. CPT Code 63042 consists of:

Laminotomy (hemilaminectomy), with decompression of nerve root(s), including partial facetectomy, foraminotomy and or excision of herniated disks, re-exploration, lumbar.
11. LMIC did not show that the “re-exploration” mentioned in the definition of CPT Code 63042 is the same as the “exploration of spinal fusion” covered by CPT Code 22830 and performed in this case.
12. The activity performed by Dr. Sheffey and billed under CPT Code 15734 in this case is commonly performed by surgeons and should be billed as a part of the primary code for the procedure.
13. Neither the definition of CPT Code 22852 nor the definition of CPT Code 63042 contains a restriction on billing CPT Code 22852 separately.

14. A laminotomy would not necessarily require the removal of instrumentation unless, as in this case, a fusion had been performed previously.

III. Conclusions of Law

1. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. § 413.031(d) and TEX. GOV'T CODE ANN. ch. 2003.
2. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. § 2001.052.
3. LMIC has the burden of proof in this matter. 28 TEX. ADMIN. CODE (TAC) §148.21(h).
4. LMIC should be required to reimburse East Harris \$2,301.00 for CPT Codes 22830 and 22852.
5. LMIC should not be required to reimburse East Harris for CPT Code 15734.

ORDER

IT IS, THEREFORE, ORDERED that Liberty Mutual Insurance Company shall reimburse East Harris County Orthopedic Associates \$2,301.00 for the CPT Code 22830 and 22852 services performed on the Claimant on October 30, 2001. Liberty Mutual Insurance Company shall not be required to reimburse East Harris County Orthopedic Associates for the CPT Code 15734 services performed on for the Claimant on that date.

Signed this 18th day of February, 2003.

STATE OFFICE OF ADMINISTRATIVE HEARINGS

Henry D. Card
Administrative Law Judge