

**SOAH DOCKET NO. 453-05-7486.M4
TWCC MR NO. M4-05-6516-01**

PEDRO NOSNIK, M.D., P.A.,	§	BEFORE THE STATE OFFICE
Petitioner	§	
	§	
V.	§	OF
	§	
TEXAS MUTUAL INSURANCE	§	
COMPANY,	§	
Respondent	§	ADMINISTRATIVE HEARINGS

DECISION AND ORDER

I. INTRODUCTION

Pedro Nosnik, M.D., challenged a decision of the Texas Workers' Compensation Commission's (Commission's)¹ Medical Review Division (MRD) that denied payment of \$46 in reimbursement for a telephone conversation conducted December 20, 2004. This decision upholds MRD's determination.

The hearing convened on April 10, 2006, and the record closed that day. The hearing was conducted at the State Office of Administrative Hearings, William P. Clements Building, 300 West 15th Street, Austin, Texas, before Stephen J. Pacey Administrative Law Judge (ALJ). Attorney Patricia Eads represented Texas Mutual Insurance Company (Carrier), and Dr. Nosnik appeared *pro se*.

¹ Effective September 1, 2005, the functions of the Commission were transferred to the newly created Division of Workers' Compensation of the Texas Department of Insurance.

II. ANALYSIS

The only question in this case is whether a telephone conversation under CPT Code 99372 is bundled and included in payment for other billable services or is payable under a separate charge. Carrier's position was that Medicare does not reimburse for CPT Code 99372 because it is a bundled code. Dr. Nosnik's position was that on the date of the telephone conversation, December 20, 2004, no other services were performed on Donald Johnson (Claimant); consequently, there was no other service with which to bundle the telephone conversation.

Medicare policy 100-4, 12, 30, 6, 16 reveals that telephone calls under CPT Codes 99371 through 99371 are not paid separately. Payment for telephone calls is included in payment for other billable service (e.g., visit, surgery, diagnostic procedure results). Payment can be considered bundled with any past billable service and is not limited to services rendered the same day of the telephone conversation. Further, the Primary Care Manual of TrailBlazer (2006) at page 79 provides that telephone calls under CPT Codes 99371 through 9937 are considered bundled and are never paid separately.

The ALJ agrees with the publications' conclusion that telephone calls are bundled, and the ALJ concludes that Dr. Nosnik did not prove by a preponderance of the evidence that the telephone call should be paid separately.

III. FINDINGS OF FACT

1. On May 26, 2005, the Texas Workers' Compensation Commission's (Commission's) Medical Review Division (MRD) denied payment of \$46 to Pedro Nosnik, M.D., for payment of a telephone call made December 20, 2004.
2. In response to the MRD decision, Dr. Nosnik, timely requested a hearing before the State Office of Administrative Hearings (SOAH).
3. A notice of the hearing, dated July 18, 2005, was sent to both parties.

4. The notice contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and a short, plain statement of the matters asserted.
5. Dr. Nosnik billed Carrier \$46 for a December 20, 2004 telephone conversation with Dr. Nelson concerning a discogram and possible surgery to be performed on Donald Johnson.
6. The Carrier denied payment for the services, stating that Medicare does not reimburse for CPT Code 99372 because it is a bundled code.
7. Medicare policy provides that telephone conversations can not be billed separately.

IV. CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Section 413.031 of the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. ch. 401 *et seq.*
2. SOAH has jurisdiction over this proceeding, including the authority to issue a decision and order, pursuant to TEX. LAB. CODE ANN. § 413.031(k) and TEX. GOV'T CODE ANN. ch. 2003.
3. Adequate and timely notice of the hearing was provided in accordance with TEX. GOV'T CODE ANN. § 2001.052.
4. Dr. Nosnik had the burden of proof in this matter, pursuant to 28 TEX. ADMIN. CODE § 148.14.
8. Dr. Nosnik did not prove that a telephone conversation should be unbundled and paid separately.
9. Based on the Findings of Fact and Conclusions of Law, Dr. Nosnik's challenge should be denied.

ORDER

IT IS, THEREFORE, ORDERED that the challenge of the Medical Review Division's decision is denied, and Texas Mutual Insurance Company shall not pay the amount of \$46 to Pedro Nosnik, M.D.

SIGNED May 18, 2006.

**STEPHEN J. PACEY
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**