

## Medical Fee Dispute Resolution Findings and Decision

### General Information

**Requestor Name**

Eastern Elm PLLC

**Respondent Name**

LM Insurance Corp

**MFDR Tracking Number**

M4-24-1498-01

**Carrier's Austin Representative**

Box Number 60

**DWC Date Received**

March 12, 2024

### Summary of Findings

Dates of Service	Disputed Services	Amount in Dispute	Amount Due
June 26, 2023	70450	\$6,206.20	\$23.92
June 26, 2023	72125	\$5,723.20	\$23.36
June 26, 2023	99285	\$5,206.60	\$85.56
<b>Total</b>		<b>\$17,136.00</b>	<b>\$132.84</b>

### Requestor's Position

The requestor did not submit a position statement but rather a copy of their reconsideration that states, "Please review this claim for consideration of payment."

**Amount in Dispute:** \$17,136.00

### Respondent's Position

"We have again reviewed payment for the services of June 26, 2023, by Eastern ELM PLLC and determined that reimbursement was issued according to the guidelines provided by the Texas Medical Fee Schedule. No additional payment is due – copies of the EOBs are submitted for your review."

## **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 TAC §133.307](#) sets out the procedures for resolving medical fee disputes.
2. [28 TAC §134.203](#) sets out the billing and fee guidelines for professional medical

### Denial Reasons

The insurance carrier denied the disputed service(s) with the following claim adjustment codes.

- 86 – Service performed was distinct or independent from other services performed on the same day.
- 170 – Reimbursement is based on the physician fee schedule when a professional service was performed in the facility setting.
- 298 – The recommended allowance is based on the value for the professional component of the service performed.
- 163 – The charge for this procedure exceeds the unit value and/or the multiple procedure rules.
- 56 – Significant, separately identifiable E/M service rendered.
- 193 – Original payment is being maintained. Upon review, it was determined that this claim was processed properly.

### Issues

1. What rule(s) are applicable to reimbursement?
2. Is the requestor due additional payment?

### Findings

1. The requestor is seeking reimbursement of professional medical services rendered June 26, 2023.
  - 70450-26, -59 – Computed tomography, head or brain; without contrast material
  - 72125-26, -59 – Computed tomography, cervical spine; without contrast material
  - 99285 -25 – Emergency department visit for the evaluation and management of a patient, which requires a medically appropriate history and/or examination and

high level of medical decision making.

The modifiers used in this medical bill submission are defined as follows.

- 26 – Professional component
- 25 – Significant, separately identifiable evaluation and manage service by the same physician or other qualified health care professional on the same day of the procedure or other service
- 59 – Distinct Procedure Service

The insurance carrier made payment for the disputed services based on the physician fee schedule.

Professional medical services rendered in a facility setting are subject to provisions of DWC Rule 28 TAC §134.203(c)(1)(2) which states. "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.

The MAR (maximum allowable reimbursement) calculation for 2023 dates of service is DWC Conversion Factor/Medicare Conversion Factor multiplied by CMS Physician fee schedule amount for location of service.

Review of the submitted medical bill found the location to be Garland, Texas.

- Code 70450 –26, - 81.38/33.8872 x \$40.94 = \$98.32
- Code 72125 -26, - 81.38/33.8872 x \$47.83 = \$114.86
- Code 99285 – 81.38/33.8872 x \$175.20 = \$420.74
- Total = \$633.92

2. The MAR for the disputed services is \$633.92. The insurance carrier paid \$501.08. An additional payment of \$132.84 is 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 established that reimbursement is due.

**Order**

Under Texas Labor Code §§413.031 and 413.019, DWC has determined the requestor is entitled to additional reimbursement for the disputed services. It is ordered that Liberty Mutual must remit to Eastern Elm PLLC \$132.84 plus applicable accrued interest within 30 days of receiving this order in accordance with 28 TAC §134.130.

**Authorized Signature**

\_\_\_\_\_

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

April 4, 2024

Date

Signature

## 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](http://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](mailto: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](mailto:CompConnection@tdi.texas.gov).