



October 26, 2018

SENT VIA EMAIL ONLY

New York Worker’s Compensation Board
Attn: Clarissa M. Rodriguez, Worker’s Compensation Board Chair
regulations@wcb.ny.gov

Re: NCV/EMG/EDx, WCB Notice of Adoption of the revised, proposed Medical Fee Schedule
2018-10-3

Dear Ms. Rodriguez:

On behalf of the American Association of Neuromuscular & Electrodiagnostic Medicine (AANEM), we are pleased to submit the following comments in response to the notification of adoption the proposed Worker’s Compensation Medical Fee Schedule changes for electrodiagnostic (EDX) medicine. The AANEM is recognized as the expert in areas related to EDX medicine. AANEM is comprised of more than 4500 neurologists, physical medicine and rehabilitation (PMR) physicians, technologists, and other physician collaborators interested in neuromuscular diseases. Our physician members diagnose and treat patients with disorders of the muscle and nerve, such as carpal tunnel syndrome, radiculopathy, Guillan-Barre syndrome, Lou Gehrig’s disease (ALS), diabetic neuropathy, and muscular dystrophy.

AANEM is extremely disappointed to see that the New York Worker’s Compensation Board ignored our letter (as well as the letters of several other individuals and organizations) of August 3, 2018, and decided to proceed with adoption of not only the new CPT codes, but also the accompanying reduction in reimbursement. In response to the comments, the Board stated:

“As the changes in the rates for reimbursement for EMGs and EDX are not the result of an actual decrease in reimbursement rates but rather reflect changes to the CPT codes themselves as created by the American Medical Association, no changes have been made to the Fee Schedule as a result of these comments.”

This statement is simply untrue, as can be seen in our initial comment letter and included again for your review below, this table clearly shows a significant reduction in payment for EDX services, up to 63% in some instances:

Table with 5 columns: New CPT Code, Proposed Payment, Calculation, Payment Under Old Codes, % Change in Proposed Payment. Rows include codes 95907 through 95913 with corresponding payment values and percentage changes.

* Because of the change in codes, these numbers were calculated by the average payment for an NCS code [(\$106.47 for motor or sensory + \$166.47 for motor/F + \$119.99 for H reflex)/3 = \$131 single NCS -> multiplied by the average of the NCSs for each of the new codes]

When the Centers for Medicare & Medicaid Services (CMS) changed the CPT codes in 2013, they effectively cut the reimbursement for EDX testing codes by 32% to 67%. These cuts have had a devastating effect on providers, with many providers withdrawing from participation in Medicare. This impact is likely to be even greater with worker's compensation. Our members in New York have reported that the professional and administrative time required to provide care to these patients is double or triple that required for a patient with Medicare, No Fault, or a private payer, due to requirements of sending the bill to three different entities (the Board, the Carrier, and the Attorney/Claimant), requiring a paid partnership with a Board-approved XML partner to submit form EC4Narr, having to deal with IMEs and depositions and numerous other requirements.

According to the published Proposal, the goal of the proposed changes are, "To increase provider participation in worker's compensation system and improve injured workers' access to timely, quality medical care, the Worker's Compensation Board (Board) is proposing an increase to provider fees." If this statement is true and the Board decides to enact its decision to adopt the new CPT codes, then the reimbursement rates will need to be adjusted accordingly to, at a minimum, maintain the current rates (as can be seen on the chart on the preceding page).

Please do not hesitate to contact us if we can provide any further information or clarification. Thank you for the opportunity to comment on these important issues as we look towards reforming our health care payment system.

Sincerely,



Shirlyn A. Adkins, JD
AANEM Executive Director

