

Amended MDR Tracking Number: M5-04-0392-01 (**Previously M5-03-2982-01**)

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution – General and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a dispute resolution review was conducted by the Medical Review Division regarding a medical payment dispute between the requestor and the respondent named above. This dispute was received 7-17-03.

This AMENDED FINDINGS AND DECISION supersedes M5-03-2982-01 rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision of was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 10-8-03. An Order was rendered in favor of the Requestor. The Requestor appealed the Order to an Administrative Hearing because "The reviewer stated that treatment after 9/20/02 is not considered medically necessary based on the patient's findings and response to care and work hardening is not necessary due to the fact that light duty was available for Mr. Gama. It should be noted that preauthorization was given by the Insurance Carrier for the Work Hardening program for dates of service 10/2/2 – 10/29/2. We did not seek further pre-authorization for this program as our facility became CARF Accredited on October 15, 2002."

I. DISPUTE

Whether there should be reimbursement for CPT codes 99213, 97265, 97250, 97110, 95851, 95900-27, 95904-27, 95925, 95935-27, 97750MT, A4558, 99080, 99211, 97750FC, 97545WH, 97546WH, E0745, and 99455L5WP rendered from 7-25-02 through 11-25-02.

II. FINDINGS

- a. On 10-1-02, Zurich Services Corporation gave preauthorization approval for work hardening with home exercise program from 10-2-02 to 10-29-02.

A review of the TWCC-60 does not identify work hardening as a service in dispute for dates 10-2-02 through 10-29-02. Therefore, preauthorization is not an issue in dispute.

- b. The requestor contends that, "We did not seek further pre-authorization for this program as our facility became CARF Accredited on October 15, 2002." The work hardening program rendered after 10-15-02 was not denied based upon preauthorization but for lack of medical necessity.

III. RATIONALE

The IRO reviewed CPT codes 99213, 97265, 97250, 97110, 95851, 95900-27, 95904-27, 95925, 95935-27, 97750MT, A4558, 99080, 99211, 97750FC, 97545WH, 97546WH, E0745, and 99455L5WP rendered from 7-25-02 through 11-25-02 that were denied based upon “V”.

The 9-18-03 IRO report indicates “EMG/NCV tests and all treatment through 9/20/02 were found to be medically necessary and appropriate. Work hardening, electrical nerve stimulation and treatment after 9/20/02 are not found to be medically necessary.”

The MDR erroneously requested that IRO not consider work hardening program since preauthorization had been obtained. As stated above, the preauthorized dates were not in dispute. The MDR correctly requested that the IRO Amend decision and not consider the data analysis which was not in dispute. The IRO also was requested to consider the MMI/IR, Somatosensory testing, DME that had been left off of original request.

The Amended IRO report indicates, “The EMG/NCV tests and all treatment through 9/20/02 were found to be medically necessary and appropriate. Electrical nerve stimulation, MMI/IR report, somatosensory testing, DME (conductive gel), DME (nerve stimulators), copes and treatment after 9/20/02 are not found to be medically necessary.”

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

The IRO found the following treatment to be medically necessary

DATE	CPT CODE	AMT. BILLED/MAR
7-25-02	99213	\$48.00 X 12 dates =
8-6-02		\$576.00
8-7-02		
8-8-02		
8-12-02		
9-3-02		
9-4-02		
9-5-02		
9-6-02		
9-9-02		
9-10-02		
9-19-02		

7-25-02 8-6-02 8-7-02 8-8-02 8-12-02 9-3-02 9-4-02 9-5-02 9-6-02	97265	\$43.00 X 9 dates = \$387.00
7-25-02 8-6-02 8-7-02 8-8-02	97250	\$43.00 X 4 dates = \$172.00
7-25-02 8-6-02 8-7-02 8-8-02 8-12-02	97110	\$175.00 X 5 dates = \$875.00
9-3-02 9-4-02 9-5-02 9-6-02	97110	\$210.00 X 4 dates = \$840.00.
7-25-02 8-8-02 9-5-02	95851	\$36.00 X 3 dates = \$108.00.
8-8-02	95900-27	\$179.20
8-8-02	95904-27	\$268.80
8-8-02	95925-27	\$122.50
8-8-02	95935-27	\$148.40
8-12-02	97750-MT	\$43.00
9-9-02	A4558	\$18.00
9-11-02 9-16-02 9-17-02 9-18-02 9-19-02	99211	\$18.00 X 5 dates = \$90.00
9-12-02	97750FC	\$500.00
TOTAL		\$4327.90

On this basis, the total amount recommended for reimbursement (\$4327.90) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 9-9-02, the requestor billed CPT code 99080 for \$3.50. The MDR is unable to determine if requestor complied with Rule 133.2 in billing for copies of medical records; therefore, no reimbursement is recommended.

III. AMENDED DECISION & ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 7-25-02 through 11-25-02 in this dispute.

The above Amended Findings and Decision are hereby issued this 20th day of October 2004.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

September 18, 2003
Amended January 21, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-03-2982-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic who is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

The documentation presented states that ___ is a 30-year-old male who was injured at work on ___. He was pulling a light generator when it fell over, impacting the patient's

right hand and causing a crush injury of the fifth digit. The impact caused a deep laceration on the palmar aspect of his right hand. The patient was rushed to the company doctor and underwent wound irrigation, debridement, and the repair of the neurovascular bundle by ___ on 5/28/02. The patient was prescribed medications and physical therapy by ___ for his condition. ___ switched doctors to ___ and continued active and passive care for his condition. ___ referred ___ for an MRI of the right hand on 8/2/02 that revealed cellulites in the area of the trauma with inflammation and slight thickening in the region of the trauma. The other findings within the scan were unremarkable.

The patient was then referred for a second opinion on 9/9/02 with ___ who noted a 3cm palmar scar with no signs of infection. ___ also stated that the patient did exhibit active and passive range of motion in the fifth digit, but lacked 15 degrees of extension at the PIP joint. ___ recommended continued occupational therapy. ___ underwent a designated doctor's examination on 9/20/02 that found him at MMI, and he was given a 3% whole person impairment rating. He was referred for numerous FCEs and muscle testing of the involved area to gauge his progress on 7/11/02, 8/22/02 and 9/12/02. There were some discrepancies noted in the patient's efforts.

DISPUTED SERVICES

Under dispute is the medical necessity of MMI/IR report, somatosensory testing, DME (conductive gel), DME (nerve stimulators) and copies, office visits, myofascial release, joint mobilization, therapeutic exercises, range of motion tests, H or F reflex studies, nerve conduction studies, muscle testing, special reports, FCE and electrical nerve stimulation from 7/25/02 through 11/25/02.

DECISION

The reviewer both agrees and disagrees with the prior adverse determination.

The EMG/NCV tests and all treatment through 9/20/02 were found to be medically necessary and appropriate.

Electrical nerve stimulation, MMI/IR report, somatosensory testing, DME (conductive gel), DME (nerve stimulators), copies and treatment after 9/20/02 are not found to be medically necessary.

BASIS FOR THE DECISION

The EMG/NCV tests are considered medically necessary, based on the post-operative report, MRI results and the extent of the patient's injury. The reviewer also found medical necessity for all treatment through 9/20/02.

Treatment after 9/20/02 is not considered medically necessary based on the patient's findings and response to care. The electrical nerve stimulation would also not be considered medically necessary due to the findings from the EMG/NCV study.

The MMI/IR was performed over 2 months after the report of the Designated Doctor. There was no rational reason for such a report to be rendered at that time. Somatosensory testing would not render any information that would reasonably help this patient's diagnosis, as EMG/NCV was the most appropriate diagnostic tool. The DME utilized was not reasonable at that point in the treatment plan, as passive modalities would not be effective at that stage of the care.

The study performed at the LSU Department of Neurosurgery in 1995 found that operative complications, such as post-operative hematoma, infection, dehiscence, or prolonged immobilization give support to the position that post-operative scarring is the cause of patients' persistent symptoms, therefore post-operative physical therapy is imperative in a patient's progress. This determination falls within the Mercy Fee Guidelines, Texas Guidelines for Chiropractic Quality Assurance and Practice Parameters, and well within the mainstream of the medical community.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,