

MDR Tracking Number: M5-04-1540-01

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, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 01-28-04. Dates of service 01-16-03 through 01-23-03 per Rule 133.308(e)(1) were not timely filed and will not be reviewed by the Medical Review Division.

Dates of service 08-25-03 through 10-13-02 were withdrawn on 05-18-04 by the requestor and will not be reviewed.

The IRO reviewed office visits, manual traction, myofascial release, physical medicine, ultrasound, therapeutic exercises, manual therapy, therapeutic procedures, chiropractic manipulation, joint mobilization and electrical stimulation rendered from 01-28-03 through 09-15-03 that were denied based upon "V".

The IRO determined that two (2) office visits per month between 01-28-03 and 09-15-03 (total of 14 visits) and all of the disputed post-operative care that began on 09-15-03 **were** medically necessary. The IRO determined all other services reviewed **were not** medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. 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.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 05-05-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

CPT code 99080-73 dates of service 02-20-03, 03-06-03, 04-17-03, 05-23-03, 06-18-03, 07-14-03 and 08-01-03 denied with a "V" denial code (unnecessary medical with peer

review). The TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter. Reimbursement in the amount of \$105.00 (\$15.00 X 7 DOS) is recommended.

### **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) and in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202(c) 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 01-28-03 through 08-01-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Findings and Decision and Order are hereby issued this 28th day of October 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division  
DLH/dlh

April 30, 2004  
Amended October 13, 2004

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

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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. The reviewer 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

This employee of \_\_\_ was injured on the job on \_\_\_. She was a bus driver carrying special education children. She was the restrained driver of the bus when an opposing vehicle failed to yield at a stop sign. In order for her to avoid an accident, she took a sudden very sharp left, then right turn. She was driving and holding the steering wheel very tightly and noticed significant jarring of her upper torso, mostly her neck and shoulders forward, backwards and sideways. By the records, there was no collision. She was initially seen for medical care on 10/28/02 at the emergency department of a hospital for initial complaints of right shoulder and neck pain. She was prescribed medication and discharged. She first saw the treating doctor on 11/1/02 with complaints of neck pain spreading over her shoulders, upper back pain with pain and burning sensation down the inter scapular areas. Both of her shoulders hurt, but the right side seemed to be more prominent. Her entering pain scale was 8/10. She denied any radicular complaints, numbness or tingling to the upper extremities. The patient denied any previous history of same or similar complaints prior to the incident date of 10/14/02.

The patient began conservative care with physical therapy. She was referred to a neurology consultation and underwent EMG/NCV testing on 11/14/02. This exam found increased activity in the mid and lower cervical spine. She underwent a cervical MRI on 12/20/02 that revealed a 2 mm bulge at C4/5 and C5/6. On March 27, 2003 a right shoulder MRI revealed the absence of the anterior rim of the glenoid labrum with complete degeneration or tear of the anterior rim. On May 7, 2003 she received right shoulder cortisone injection. On September 3, 2003 she underwent right shoulder arthroscopy and began post-op therapy on September 15, 2003. A repeat EMG/NCV was performed on 12/4/03, revealing findings of chronic C6/7 radiculopathy. A repeat cervical MRI on December 16, 2003 revealed findings identical to the previous MRI. She had cervical epidurals and responded poorly to them. A spinal column stimulator has been recommended. This patient has chosen not to seek a spinal surgery consultation. The treating chiropractor has seen the patient for pre-operative and post-operative care approximately 140 times.

## DISPUTED SERVICES

Under dispute is the medical necessity of office visits (99212), manual traction (97122), myofascial release (97250), physical medicine (97014), ultrasound (97035), therapeutic exercises (97110), manual therapy (97140), therapeutic procedures (97124), chiropractic manipulation (98940), joint mobilization (97265) and electrical stimulation (97032).

## DECISION

The reviewer disagrees with the previous adverse determination regarding two office visits (99212) per month between 01/28/03 and 09/15/03, a total of 14 visits, for evaluation and management. The reviewer also finds medical necessity for all of the disputed post-operative care that began approximately 09/15/03.

The reviewer agrees with the previous adverse determination regarding all other care provided.

## BASIS FOR THE DECISION

From the initial visit to the first disputed date of service on 01/28/03, the patient was seen by the requesting doctor approximately 35 times. This included evaluation and management services physical therapy and chiropractic management. The dates of disputed services range from 01/28/03 through 09/24/03. The reviewer finds that this patient would require visits of up to twice per month with the treating doctor between 01/28/03 and 09/15/03, a total of 16 visits. This would allow for timely evaluation and management and coordination of care with the patient's other providers. The post-operative care would be appropriate beginning approximately 09/15/03. A total of eight weeks of post-operative care would be considered appropriate in this patient, a total of 24 visits.

This is a very lengthy and complicated case with numerous providers involved. The treating physician's daily record keeping skills are very poor. The reviewer had an extremely difficult time deciphering the hand-written notes that are at times un-decipherable for entire lines, sentences and paragraphs. The treating physician's dictated notes are well done, detailed and allow for an idea of what is transpiring with the doctor's patient. Unfortunately, dictation was only performed at major events, such as initial evaluations, reevaluations and supplemental reporting times. Otherwise, the day-to-day note keeping skills are poor and do not help in the management of this patient's case.

The patient should have undergone right shoulder MRI and surgery sooner. The treating physician continued on a frequent course of conservative care but failed to provide workable objective goals. The physician did coordinate care with other providers, but many times the diagnostics were delayed without reason and the therapy continued in the interim. Ongoing therapy in any form beyond 1/28/03 would not have been of any therapeutic benefit. Again, evaluation and management visits of up to 2x per month

would be reasonable in this case. Between 01/28/03 and the surgery date of September 3, 2003, the patient would require medications, interventional pain management and home management. Following the surgery, post-operative care would again be reasonable for up to 24 visits over eight weeks. Further physical therapy would only be necessary at times of significant exacerbation or aggravation and would be expected to be applied in short intervals only.

Simply because the consulting physicians continue to prescribe physical therapy pre and post surgically, that does not make the care reasonable or necessary. Again, better case management skills would have resulted in a more timely diagnosis and more timely surgical repair.

\_\_\_ 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,