

MDR Tracking Number: M5-04-2000-01

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 133.308 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 3-5-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that therapeutic exercises, myofascial release and joint mobilization from 3-4-03 through 4-10-03 were not medically necessary. Therefore, the requestor is not entitled to a reimbursement of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute 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 6-25-04, 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.

Regarding the medical fee items for dates of service 3-24-03 through 5-2-03: Medical Dispute Resolution staff has been in communication with Pam Greer, Claims Associate at Broadspire, since December 2, 2004. Pam has stated that the insurance carrier will reaudit this dispute and reimburse the requestor for services for which the carrier has recommended "total allowance". However, Olga Alicia Marquez, the requestor's representative, states that no payment for these services has been received. Per Rule 133.304 (a) an insurance carrier shall take final action on a medical bill not later than the 45th day after the date the insurance carrier received a complete medical bill. This violation will be referred to TWCC Compliance and Practice Division for review. The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). MDR staff recommends payment according to 1996 Medical Fee Guidelines as follows:

CPT code 99213 on 3-24-03, 3-26-03, 3-27-03, 3-31-03, 4-2-03, 4-4-03, 4-7-03, 4-10-03, 4-22-03, 4-24-03, 4-25-03, 4-28-03, 4-30-03, 5-2-03. **Recommend reimbursement of \$672.00 (\$48.00 X 14 DOS).**

CPT code 97110 on 3-24-03, 3-26-03, 3-27-03, 3-31-03, 4-2-03, 4-4-03, 4-22-03, 4-24-03, 4-25-03, 4-28-03, 4-30-03, 5-2-03. Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. **Reimbursement not recommended.**

CPT code 97250 on 3-24-03, 3-26-03, 3-27-03, 3-31-03, 4-2-03, 4-4-03, 4-22-03, 4-24-03, 4-25-03, 4-28-03, 4-30-03, 5-2-03. **Recommend reimbursement of \$516.00 (\$43.00 X 12 DOS).**

CPT code 97265 on 3-24-03, 3-26-03, 3-27-03, 3-31-03, 4-2-03, 4-4-03, 4-22-03, 4-24-03, 4-25-03, 4-28-03, 4-30-03, 5-2-03. **Recommend reimbursement of \$516.00 (\$43.00 X 12 DOS).**

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees outlined above as follows:

- In accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this Order.

This Order is applicable to dates of service 3-24-03 through 5-2-03 as outlined above in this dispute.

This Decision and Order is hereby issued this 4th day of March , 2005.

Donna Auby

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

NOTICE OF INDEPENDENT REVIEW DECISION

May 21, 2004

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: Injured Worker: M5-04-2000-01
MDR Tracking #: IRO4326
IRO Certificate #:

The Texas Medical Foundation (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. TMF's health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This patient sustained a work-related injury on ___ when he was moving a pallet of groceries and experienced low back pain. A radiology report dated 05/16/02 revealed an L3-4 through L5-S1 degenerative disc disease, L4-5 and L5-S1 disc space narrowing and L4-5 and L5-S1 bone marrow endplate vertebral body signal abnormality compatible with degenerative disease. The patient was treated with epidural steroid injections as well as chiropractic treatments in the form of therapeutic exercises, myofascial release and joint mobilization.

Requested Service(s)

Therapeutic exercises, myofascial release and joint mobilization provided from 03/04/03 through 04/10/03.

Decision

It is determined that the therapeutic exercises, myofascial release and joint mobilization provided from 03/04/03 through 04/10/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The medical record documentation consists of computer generated daily progress notes, verbatim from day to day and super imposable upon each other. The "Comments" section, on each of the daily notes was identical to each other including the doctor's electronic signature. Therefore, the medical documentation fails to substantiate the medical necessity for the treatment in question.

In addition, the medical record documentation fails to substantiate that the aforementioned services fulfilled the requirements of Texas Labor Code 408.021 that states:

"a) An employee who sustains a compensable injury is entitled to all health care reasonable required by the nature of the injury as when needed. The employee is specifically entitled to health care that:

- (1) cures or relieves the effects naturally resulting from the compensable injury;
- (2) promotes recovery; or
- (3) enhances the ability of the employee to return to or retain employment."

The treatment in question was not medically necessary since there is no documentation indicating that the patient obtained relief from the treatments, promotion of recovery as accomplished or that there was an enhancement of the employees ability to return to or retain employment. Therefore, the therapeutic exercises, myofascial release and joint mobilization provided from 03/04/03 through 04/10/03 were not medically necessary to treat this patient's condition.

Sincerely,

Gordon B. Strom, Jr., MD
Director of Medical Assessment

GBS:vn