

MDR Tracking Number: M5-04-2169-01

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 3-15-04.

The IRO reviewed CPT codes 99211, 99212, 99213, 95833, 95831, 95851, 97140, 97110, 97530 rendered from 9-22-03 through 1-16-04-28-02 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the 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 June 9, 2004, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

No EOB: Neither party in the dispute submitted EOBs for some of the disputed services identified below. Since the insurance carrier did not raise the issue in their response that they had not had the opportunity to audit these bills and did not submit copies of the EOBs, the Medical Review Division will review these services per *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
9-19-03	99203	\$119.53	\$0.00	No EOB	\$95.62 X 125% = \$119.53	CPT Code MAR	MAR reimbursement of \$119.53 is recommended.
9-19-03	72052WP	\$80.44	\$0.00	No EOB	\$64.35 X 125% = \$80.44	CPT Code MAR	MAR reimbursement of \$80.44 is recommended.
9-19-03	73030WP	\$40.93	\$0.00	No EOB	\$32.74 X 125% = \$40.93	CPT Code MAR	MAR reimbursement of \$40.93 is recommended.
9-22-03	A4558	\$5.76	\$0.00	N	\$5.76	Biofreeze	SOAP note supports delivery of service, reimbursement of \$5.76 is recommended.

9-22-03	95851 (2)	\$71.56	\$0.00	G	$\$28.62 \times 125\% =$ $\$35.78 \times 2 =$ $\$71.56$	ROM Testing	Right and Left Shoulder and Cervical ROM testing is not global to office visit rendered on this date. Reimbursement of \$71.56 is recommended.
9-26-03	99080-73	\$15.00	\$0.00	F	\$15.00	Rule 129.5(d)	Report indicates claimant had not returned to work; therefore, per Rule 129.5(d) filing and billing of report was not necessary, no reimbursement is recommended.
10-1-03	99213	\$66.19	\$0.00	L	$\$52.95 \times 125\% =$ $\$66.19$	Office Visit	Requestor was claimant's treating doctor; therefore, denial based upon "L" was inappropriate. MAR reimbursement of \$66.19 is recommended.
10-1-03	A4558	\$5.76	\$0.00	L	\$5.76	Biofreeze	Requestor was claimant's treating doctor; therefore, denial based upon "L" was inappropriate. SOAP note supports delivery of service, reimbursement of \$5.76 is recommended.
12-3-03	A4558	\$5.76	\$0.00	F	\$5.76	Biofreeze	SOAP note supports delivery of service, reimbursement of \$5.76 is recommended.
12-11-03	99080	\$33.00	\$0.00	F	\$0.50/pg \$15.00	Rule 133.106	A TWCC-73 for this date was not submitted. HCFA-1500 does not indicate if billing is for copies per Rule 133.106. Therefore, no reimbursement is recommended.
12-16-03	99212	\$47.23	\$0.00	F	$\$37.78 \times 125\% =$ $\$47.23$	CPT Code Descriptor	MAR reimbursement of \$47.23 is recommended.
12-16-03 12-22-03	97110	\$136.20	\$107.67	F	$\$28.72 \times 125\% =$ $\$35.91$	Rule 134.202	See Rationale below
12-19-03 12-22-03	99213	\$66.19	\$0.00	F	$\$52.95 \times 125\% =$ $\$66.19$	CPT Code Descriptor	MAR reimbursement of \$66.19 X 2 dates = \$132.38 is recommended.
12-16-03 12-19-03 12-22-03	97140	\$34.05	\$0.00	F	$\$27.24 \times 125\% =$ $\$34.05$	CPT Code Descriptor	MAR reimbursement of \$34.05 X 3 dates = \$102.15 is recommended.
12-19-03	97110	\$136.20	\$0.00	F	$\$28.72 \times 125\% =$ $\$35.91$	Rule 134.202	See Rationale below

12-22-03	95999WP (6)	\$384.00	\$0.00	N	ICIC	Sensory Nerve Conduction Test	Report supports delivery of service, reimbursement of \$384.00 is recommended.
TOTAL							The requestor is entitled to reimbursement of \$1061.69 .

Rationale for 97110:

Recent review of disputes involving one-on-one 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 therapy notes for these dates of service do not support any clinical (mental or physical) reason as to why the patient could not have performed these exercises in a group setting, with supervision, as opposed to one-to-one therapy. The Requestor has failed to submit documentation to support reimbursement in accordance with Rule 134.202 and 133.307(g)(3). Therefore, reimbursement is not recommended.

DECISION & ORDER

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor **is** entitled to reimbursement for CPT codes, 99203, 99213, 72052WP, 73030WP, A4558, 95851, 99212, 97140, 95999WP in the amount of **\$1061.69**. Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Division hereby ORDERS the Respondent to remit **\$1061.69** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

The above Findings, Decision and Order are hereby issued this 28th day of January 2005.

Elizabeth Pickle
 Medical Dispute Resolution Officer
 Medical Review Division

Enclosure: IRO Decision

May 21, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-2169-01
TWCC #:
Injured Employee:
Requestor:
Respondent:
----- Case #:

----- has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ----- IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ----- for independent review in accordance with this Rule.

----- has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ----- external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ----- chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ----- for independent review. In addition, the ----- chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 35 year-old female who sustained a work related injury on -----. The patient reported that while at work she strained her neck and left shoulder when she was carrying some lunch trays. The patient also reported that she slipped and fell. On 1/31/03, the patient underwent x-rays of the cervical spine that were reported as normal. The patient underwent x-rays of the cervical, thoracic, lumbar spine and left shoulder on 2/6/03 that were reported to be normal. EMG studies were performed on 2/21/03 and a MRI of the left shoulder was performed on 3/11/03. The patient underwent epidural steroid injections of the cervical spine on 4/24/03. A MRI of the lumbar spine performed 5/21/03. On 6/25/03 the patient underwent arthroscopic surgery of the left shoulder with rotator cuff repair, debridement, and subacromial decompression. The patient underwent an anterior cervical discectomy at C5-6, partial corpectomy at the inferior portion of the body of C5, interbody fusion using tricortical allograft, and stable internal fixation with an anterior screw plate system using the Spine-Tech plate on 10/10/03 for the diagnoses of a left herniated disc at C5-6. Treatment for this patient's condition has also included chiropractic treatment, physical therapy pre and postoperatively, and an electronic muscle stimulator.

Requested Services

OV, mus test whole body, mus test extremity, rom measure, man ther tech, ther exer, ther act from 9/22/03 through 1/16/04.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. MRI report 5/21/03
2. Operative Note 10/10/03
3. Review of medical history & physical exam 12/18/03

Documents Submitted by Respondent:

1. Peer Review 10/29/03

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is upheld.

Rationale/Basis for Decision

The ----- chiropractor reviewer noted that this case concerns a 35 year-old female who sustained a work related injury to her neck and left shoulder on ----- . The ----- chiropractor reviewer also noted that the patient underwent arthroscopic surgery of the left shoulder consisting of rotator cuff repair, debridement, and subacromial decompression on 6/25/03. The ----- chiropractor reviewer further noted that treatment for this patient's condition has included an anterior cervical discectomy at C5-6, partial corpectomy at the inferior portion of the body of C5, interbody fusion using tricortical allograft, and stable internal fixation with an anterior screw plate system using the Spine-Tech plate on 10/10/03, and chiropractic treatment, physical therapy pre and post operatively, and an electronic muscle stimulator. The ----- chiropractor reviewer indicated that the documentation provided does not show that the patient benefited from the chiropractic care rendered. The ----- chiropractor reviewer noted that the patient reported a slight increase in her pain during the 3 weeks of active therapy at the end of 12/03 and early 1/04. The ----- chiropractor reviewer explained that treatment for this patient's condition did not require 60 minutes of 1:1 supervised stretching for a program that could have been performed within 15 minutes at home 2-3 times a day. The ----- chiropractor reviewer noted that after 8 months of intense care, the patient had 9 positive orthopedic tests of her neck and shoulder in 9/03. The ----- chiropractor reviewer explained that the treatment this patient received did not aid in this patient returning to work. The ----- chiropractor reviewer also explained that for the type of injury this patient sustained and the amount of pain this patient originally reported, the amount of care this patient received was excessive and went beyond what was medically necessary. Therefore, the ----- chiropractor consultant concluded that the ov, mus test whole body, mus test extremity, rom measure, man ther tech, ther exer, ther act from 9/22/03 through 1/16/04 were not medically necessary to treat this patient's condition.

Sincerely,

State Appeals Department