

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 3-23-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The office visits on 8/22/03 and 9/25/03 and the therapeutic procedures rendered from 8/1/03 through 9/26/03 **were found** to be medically necessary. The office visits, manual therapy, neuromuscular re-education from 8/1/03 through 9/26/03 (except office visits on 8/22/03 and 9/26/03) **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this 8th day of July 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

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 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 Order is applicable to dates of service 8/1/03 through 9/26/03 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 Order is hereby issued this 8th day of July 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

Date: June 4, 2004

MDR Tracking #: M5-04-2267-01

IRO Certificate #: 5242

___ 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 ___ 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 proposed 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 Chiropractic reviewer who has an ADL certification. The reviewer 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 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

The claimant allegedly received injury to the low back region, while performing occupational duties for his employer on ___. The said injuries, resultant of an apparent attempt to pick up/lift/move a heavy (approximately 5 gallons) drum of sand, when the claimant experienced an immediate onset of low back pain.

On 7/10/03, ___ per referral from ___, performed a CT scan. Per CT report of the lumbar spine on that same date, the impressions are noted as; pars defects are present at L5-S1, with moderate disc space narrowing and grade I anterolisthesis of L5 upon S1. Moderate to marked bilateral foraminal narrowing was present and notation of left laminotomy defect, needing clinical correlation. There was no effacement of the thecal sac found. Finally, there was some ossification in the soft tissues was noted, posterior to the lamina, bilaterally.

Per CT findings, the claimant apparently underwent a laminectomy/discectomy (L5-S1) on 2/28/03, per records received for review, and began post-operative therapy on 5/19/03.

This claimant, apparently, was either continuing physical rehab through 7/03 or began it again on 8/01/03 through 9/26/03, the dates of service (DOS) in questions for this decision.

A series of epidural steroid injections (ESI's) were performed throughout this timeframe, apparently to assist in the recovery process.

Notes do not demonstrate that functional ability was improved with therapy, although pain remains questionable.

Requested Service(s)

Please review and address the medical necessity of the outpatient services; therapeutic procedure, manual therapy, established outpatient L2 problem FOC H&E, neuromuscular re-education for DOS 8/01/03 through 9/26/03 for the above mentioned claimant.

Decision

I disagree with the insurance company and find that, evaluation/management (E/M) code 99212 (established outpatient L2 problem FOC H&E) on 8/22/03 and 9/25/03; and E/M code 97110 (therapeutic procedures) were medically necessary for DOS 8/01/03 through 9/26/03.

I agree with the insurance company and find that E/M code 99212 (established outpatient L2 problem FOC H&E); 97140 (manual therapy) and 97112 (neuromuscular re-education) were not medically necessary for DOS 8/01/03 through 9/26/03, excluding E/M code 99212 on 8/22/03 and 9/26/03.

Rationale/Basis for Decision

Based on supporting documentation, it does appear this claimant had made progressive gain objectively throughout the DOS in question. Taking into consideration that this treatment was early in the post surgical event stage and that recovery was reported to be slower than anticipated, and since it does document continued progress, it would not appear unreasonable for a continuation for this type of therapy.

Also, based on ESI events throughout this timeframe, it is usual and customary, to accompany these with active type modalities, for the most part, to expedite the recovery process and enhance the effect of the ESI.

In this case, it is my opinion that, documentation supports the use of code 97110 throughout this time period (8/01/03 through 9/26/03), as medically necessary.

However, code 97212, 97140 and 97112 are another matter. Since the main goal, post surgically, is active therapy, then, this should be the main focus. The claimant appeared to be limited in functional activity, due to pain responses. With the advent of the ESI, the pain response was lowered, allowing the ability to achieve more active movements.

The necessity for code 99212 on every physical therapy visit is not supported or established. There were no major changes or worsening effects of a serious nature. No new treatment recommendations needing explanation or monitoring were reported. The claimant had prior therapy of the same kind/type, following the surgical event, so this was not new or different. Code 99212 on 8/22/03 and 9/26/03, providing examination findings and updates, at one time per month, is a reasonable frequency to monitor this claimant, while preceding post ESI therapy. Code 97112 and code 97140 are not necessary in terms of the amount of units already delivered through the therapeutic procedures. With the use of ESI, treatment for this claimant should be directed towards development of strength, range of motion (ROM), and flexibility. Additionally, 3-5 units of therapeutic procedure, is quite sufficient to achieve this for this area of involvement. Furthermore, this type of therapy (97112 / 97140) did not demonstrate its effectiveness, prior to this timeframe.

NOTE: The purpose of the ESI is to reduce pain and inflammation, restoration of ROM and thereby facilitate a progressive active treatment program.