

MDR Tracking Number: M5-04-2804-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution-General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 April 30, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the issues of medical necessity. The office visits (99213) rendered on 05-16-03, 06-03-03, 07-11-03, 08-27-03, 09-11-03 and 10-09-03 and manual therapy techniques, therapeutic exercise and ultrasound rendered on 11-25-03 and 12-05-03 **were** medically necessary. The office visits (99213, 99213-MP, 99212), injections, manual therapy, therapeutic exercises, therapeutic procedures, massage, electrical stimulation unattended, unlisted therapy procedures, unclassified drugs, manipulation, hot/cold pack therapy, mechanical traction, electrodes-pair, traction-manual, myofascial release, ultrasound, chiropractic manual treatment, and office visit (99214) from 05-16-03 through 12-12-03 **were not** medically necessary, excluding those services mentioned above. Therefore, the requestor is not entitled to reimbursement of the 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 08-12-04, 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.

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

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
07-14-03 09-11-03 10-09-03	99080-73	\$60.00	\$0.00	V	\$15.00 x3	1996 MFG Medicare Fee Schedule	The TWCC 73 is a TWCC required report and therefore, not subject to an IRO review. The Medical Review Division has jurisdiction in this matter; therefore, recommend reimbursement of \$45.00.
10-16-03	99214	\$95.00	\$0.00	G	\$92.30	Medicare Fee Schedule Rule 133.304 (c)	Carrier has not specified which service 99214 was global to, therefore it will be reviewed according to the Medicare Fee Schedule. Recommend reimbursement \$92.30.
10-16-03	A4209 J2000	\$5.00 \$25.00	\$0.00	G	DOP	Medicare Fee Schedule	Carrier has not specified which service A4209 and J2000 are global to, therefore, these services will be reviewed according to the Medicare Fee Schedule. However, the requestor did not submit documentation that discusses, demonstrates, and justifies that the payment amount being sought for the A4209 and J2000, is a fair and reasonable rate of

							reimbursement in accordance with Rule 133.1(a)(8), therefore no reimbursement is recommended.
TOTAL		\$185.00					The requestor is entitled to reimbursement of \$137.30.

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 (b); 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 for dates of service 05-16-03 through 10-16-03 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 10th day of November 2004.

Patricia Rodriguez
 Medical Dispute Resolution Officer
 Medical Review Division

PR/pr

NOTICE OF INDEPENDENT REVIEW DECISION

SECOND AMENDED DECISION

Date: November 4, 2004

RE:

MDR Tracking #: M5-04-2804-01

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.

Submitted by Requester:

- Initial visit dated 1/12/01 by _____
- Assorted treatment notes dated 5/01/02 thru 6/04/04 by _____
- TWCC-73's dated 5/01/02 thru 6/04/04 (29 total)
- Assorted office visits and prescription forms dated 5/04/02 thru 6/09/04 by _____
- Assorted office visits and prescription forms dated 5/07/02 thru 12/11/03 by _____
- Biofeedback reports dated 5/12/02 thru 7/24/02 by _____
- Physical therapy treatment log dated 5/13/02 thru 1/13/04
- Treatment log dated 5/13/02 thru 6/09/04 by _____
- Assorted office visits and prescription forms dated 7/18/02 thru 11/03/03 by _____
- RME - Report of medical evaluation dated 3/13/03 by _____
- FCE - Functional capacity evaluation report dated 4/10/03 by _____
- RME - Report of medical evaluation dated 5/16/03 by _____
- Assorted work hardening program notes dated 5/19/03 thru 6/16/03 by _____ and _____
- PPE - Physical performance evaluation dated 5/11/04 by _____
- Designated doctor, report of medical evaluation dated 6/07/04 by _____

Submitted by Respondent:

- Manual calculation/count for DC, PT, MD - monthly/annual treatment and therapy, per carrier for 2001, 2002 and 2003
- Assorted review reports dated 6/26/01 thru 10/13/03 by _____ (7 total)
- Assorted daily treatment logs dated 2/13/03 thru 7/28/03 by _____
- Assorted follow up notes for DOS 3/06/03 thru 12/12/03 by _____
- FCE report dated 4/10/03 by _____
- Assessment reports dated 4/21/03 and 5/27/03 by _____
- Table of disputed services for DOS 5/16/03 thru 12/05/03
- Assorted EOB's for DOS 5/16/03 thru 12/12/03 by _____
- Assorted work hardening progress notes dated 5/27/03 thru 6/06/03 by _____
- Follow up visit dated 9/18/03 with _____
- _____ letter to _____ dated 6/14/04

Clinical History

The claimant allegedly received repetitive type injury to the left arm and hand while performing occupational duties for her employer, _____, on _____. The said injury, resultant from repetitive use disorder, is due to the duties performed as _____.

The claimant was noted to have sought initial care with _____ on 1/21/01 for conservative care treatment.

It is noted that the claimant received conservative care, in addition, injections, physical therapy (PT), CMT work conditioning, biofeedback, psychological care and carpal tunnel release procedure dated 8/20/02, all unsuccessful in eliminated the onset of pain.

Assorted treatment notes by _____ report multiple treatment programs and numerous type therapy under his supervision from dates of service 1/21/01 up to 6/04/04.

The claimant participated in several biofeedback sessions from 5/12/02 thru 7/24/02 under the supervision of _____.

Physical therapy, additional carpal tunnel injections and an additional carpal tunnel release procedure was performed on 1/15/03 by _____.

FCE performed on 4/10/03 by _____ reported claimant to be unable to return to work due to continued pain and symptomatology complaints.

The RME - Report of medical evaluation preformed on 5/16/03 by _____ found the claimant to be at MMI.

A work hardening program was implemented by _____ per documentation for dates of service 5/19/03 thru 6/16/03 reported by _____ and _____, for _____.

A physical performance evaluation was performed by _____ on 5/11/04 to assess work capabilities.

The last available treatment note/office visit dated 6/04/04 by _____ reported claimant as still having difficulty with the right elbow, although it has improved over time. Additionally, the cervical region has continued to be a problem, as well. Simulated work, typing in particular, must cease after 30 minutes due to the onset of pain. Referral for pain management will be recommended and return to work with restrictions, and request claimant to follow-up in one month.

No further treatment notes were available for this review beyond 6/04/04 by _____.

Requested Service(s)

Please review and address the medical necessity of the outpatient services to include: 99213 - OV, 99213 - MP, 99212 - OV, 99214 - OV, 20550 - injection tendon-ligament-cyst, 97140 - manual therapy technique, 97110 - therapeutic exercises, 97150 - therapeutic procedures, 97124 - massage, G0283/97014 - EMS unattended, 97139 - ME - unlisted therapeutic procedures, J3490000 - unclassified drugs, 97261 - manipulation, 97010 - hot/cold pack, 97012 - mechanical traction, A4556 - electrodes - pair, 97122 - traction manual, 97250 - myofascial release, 97035 - ultrasound, and 98940 - chiropractic manual treatment for the dates of service from 5/16/03 thru 12/12/03 (excluding DOS 10/16/03 and 99080-73 reports).

Decision

I disagree with the insurance company and find that evaluation/management (E/M) code 99213 - OV for DOS 5/16/03, 6/03/03, 7/11/03, 8/27/03, 9/11/03 & 10/09/03, and E/M codes 97140 - manual

therapy technique, 97110 - therapeutic exercises, and 97035 - ultrasound on 11/25/03 and 12/05/03 were medically necessary.

I agree with the insurance company and find that E/M codes 99213 - OV, 99213 - MP, 99212 - OV, 99214 - OV, 20550 - injection tendon-ligament-cyst, 97140 - manual therapy technique, 97110 - therapeutic exercises, 97150 - therapeutic procedures, 97124 - massage, G0283/97014 - EMS unattended, 97139 - ME - unlisted therapy procedures, J3490000 - unclassified drugs, 97261 - manipulation, 97010 - hot/cold pack, 97012 - mechanical traction, A4556 - electrodes - pair, 97122 - traction manual, 97250 - myofascial release, 97035 - ultrasound, and 98940 - chiropractic manual treatment for the DOS from 5/16/03 thru 12/12/03 were not medically necessary, excluding those mentioned above.

Rationale/Basis for Decision

Basically, it appears the main rationale for the majority of continued conservative care treatment (excluding a short phase of work hardening in the later part of 5/03 and the beginning of 6/04), throughout this time frame, was based on the questionable necessity of injection therapy on different occasions. Of course, the claimant did receive a surgical procedure involving the right cubital tunnel in 10/03, and since pre-authorization was established, post op rehab would be appropriate, following this event.

No one can argue that this claimant has received abundance, if not an over-excessive amount, of chiropractic conservative care treatment throughout the period, prior to this time frame in dispute.

Therefore, to realize the rationalization for this decision, one must bring forth certain evidence or in certain instances, lack of evidence and other inconsistencies, if present, whether prior to or currently that may imply that certain treatment was not reasonable or necessary.

Case in point, the cervical area is very questionable and appears non-related as to its connection with this injury. The rationale for this is found in the initial exam, approximately 12 days post injury, by the chiropractor. Absolutely no subjective complaint to this area is reported, including a true radiculopathy or is it reported in the working diagnosis. You can be assured that if a related cervical problem existed, the claimant would have reported it, according to the extent of problems.

As far as I can determine, treatment records do not mention subjectively or place focus on this area until over 4-5 months to 1 year later, based on treatment notes. The inconsistency is also reinforced by numerous secondary physician reports throughout 2001 and 2002, void of any cervical, subjective, or objective findings.

I also had some very serious questions as to the legitimacy of the NCV/EMG testing, supposedly verifying a C6 motor radiculopathy on a follow up test, and keeping in mind that these tests can produce false/negative results, 15% of the time.

Here we have electrodiagnostic testing performed on 5/04/02, this test reveals absolutely no signs of acute or chronic motor radiculopathy of the bilateral upper extremities, to include C5-T1 and NCV is only specific for a mild carpal tunnel syndrome (CTS) bilaterally, demyelinating at the wrists. However, on 7/08/03, another test is performed which revealed again, mild CTS bilaterally, although, the EMG now revealed moderate involvement findings of left upper extremity with an impression of acute left C6 motor radiculopathy. The problem is with this much apparent involvement, according to

the second test; one would think that at least a hint of this radiculopathy would have been present on the first test. Only a few conclusions could be drawn. Inaccurate testing was performed or this was a subsequent development, which does not correlate with the date of injury. It was reported that this claimant was involved in an accident in 6/03. Either way, it would verify if you do appreciate both tests at their face value, that conservative care treatment was not effective and possibly had worsened the condition.

Further emphasizing of this, is found in the claimant's own subjective response when she questioned the use of injections and stated that nothing was wrong with her left upper extremity. The doctors response at the time was that these injections will sometimes affect the right also.

Strictly speaking, I find no reason for a continuation of injection therapy for the date of service listed with the amount of inconsistencies reported in this case. Also, due to the fact that it was reported that previous injections were not beneficial to any degree that would promote another trial. Evidence was reviewed from both the claimants' own words and other examining physicians of independent sources. This was also evident in the fact that surgical procedures were finally implemented. I would also point out that the conflict in reporting on the injections was very confusing (i.e. report by _____, dated 4/21/03, denoting 90% relief, whereas the claimant stated, getting worse, not better) other reports record only 1-3 day relief following injections without lasting improvement. Hardly enough to warrant a continuation. Either way, these injections were cervical / trapezius in nature and do not correspond to the injury on ____, in my opinion, per evidence previously discussed. With this in mind, any post injection therapy relating to the dates of service in question, was not medically necessary for this claimant. This claimant had a sufficient, if not excessive amount of conservative, treatment to gauge whether or not any future significant progressive gain was medically reasonable, finally, culminating in maximum medical improvement determination prior to the dates of service in dispute.

I would recognize the appropriateness of 1 time per month office visits, by the treating doctor for gate keeping purposes and despite the lack of electrodiagnostic evidence, the complaint of right cubital / forearm problems is established from the point of initial exam findings, correlative with the mechanism of injury and is well documented throughout, in various reports. Having undergone an office visit, 99213, on 7/11/03, there was no medical necessity for another office visit charge, 99214, just 3 days later, particularly one of more complexity.

Therefore, I would consider the pre-cubital injections as a therapeutic / diagnostic treatment, and subsequent post-surgical rehab as a reasonable and necessary part of treatment.

The manipulative therapy was cervical focused (non-related) and was only palliative, if that, with no real benefit documented and thus was not reasonable, nor necessary. This would also include mechanical traction and accompanied injection therapy.

Documentation does not reveal any benefit or evidence that any type of TENS or neuromuscular stimulator is necessary for this claimant. Without the proper documentation supporting its use, continuation is not appropriate and thus electrodes are unnecessary.

I hope that these answers and opinions are helpful in the decision process of the above named claimant.

This IRO review is based only on documentation as recorded in the records reviewed. It is assumed by the reviewer that this documentation is free of untruthful, incomplete, or incorrect reporting. This reviewer is also aware of the possibility that certain documentation may not have been available for

review. Therefore, speculations on certain events may have been made in this report, conducive to similar cases in general practice regarding standards of care, current research updates, managed care guidelines, case history outcomes, past and current research literature, etc, which were used as a guideline.

It is the sole responsibility of the provider to establish necessity for care by providing supporting documentation and this reviewer cannot be held responsible, if unknowingly to the fact, concerning the above assumptions or lack of documentation, renders a decision or opinion based on what is presented. However, these opinions do not constitute per se, a recommendation for specific claims or administrative functions to be made or enforced.

I appreciate the opportunity to assist in the record review of claimant. Should you have further questions or concerns, feel free to contact my office at any time.