

MDR Tracking Number: M5-04-2873-01

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 5-3-04.

The IRO reviewed office visits, therapeutic activities, therapeutic exercises, muscle testing, and neuromuscular re-education on 2-2-04, 2-16-04, and 2-18-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. The IRO concluded that the therapeutic exercises on 2-2-04, office visits on 2-16-04 and 2-18-04, and one unit of neuromuscular re-education on 2-18-04 were medically necessary. The IRO agreed with the previous determination that the office visits, therapeutic activities, neuromuscular re-education, and muscle testing on 2-2-04, 2-16-04, and 2-18-04 were not medically necessary. 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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. On 7-9-04, 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.

Code 95851 billed for dates of service 12-10-03 (5 units billed), 1-5-04 (5 units billed), and 1-21-04 (5 units billed) was denied as "F-reduced according to Fee Guideline" and "435 – the value of this procedure is included in the value of the comprehensive procedure." Rule 133.304(c) states in part, "...The explanation of benefits shall include the correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier's action(s). A generic statement that simply states a conclusion such as "not sufficiently documented" or other similar phrases with no further description of the reason for the reduction or denial of payment does not satisfy the requirements of this section..." The carrier did not satisfy the requirements of this section. Therefore, recommend the following reimbursements:

- Recommend reimbursement of  $\$28.62 \times 5 \text{ units on } 12-10-03 = \$143.10 \times 125\% = \$178.88$ .
- Recommend reimbursement of  $\$21.12 \times 5 \text{ units on } 1-5-04 = \$105.60 \times 125\% = \$132.00$ . Requestor is seeking \$178.90. Recommend reimbursement of \$132.00.
- Recommend reimbursement of  $\$21.12 \times 5 \text{ units on } 1-21-04 = \$105.60 \times 125\% = \$132.00$ .

Code 95833 billed for date of service 12-29-03 was denied as “F-reduced according to Fee Guideline” and “435 – the value of this procedure is included in the value of the comprehensive procedure.” Rule 133.304(c) states in part, “...The explanation of benefits shall include the correct payment exception codes required by the Commission’s instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier’s action(s). A generic statement that simply states a conclusion such as “not sufficiently documented” or other similar phrases with no further description of the reason for the reduction or denial of payment does not satisfy the requirements of this section...” The carrier did not satisfy the requirements of this section.

- Therefore, recommend reimbursement of  $\$41.70 \times 125\% = \$52.13$ .

Codes 99212, 97112 (2 units), and 97110 billed for date of service 2-12-04 had no EOB; therefore this review will be per Rule 134.202. Since the carrier did not provide a valid basis for the denial of these services, recommend reimbursement as follows:

- Code 99212 – the MAR is  $\$39.19 \times 125\% = \$48.99$
- Code 97112 – the MAR is  $\$29.64 \times 2 \text{ units} = \$59.28 \times 125\% = \$74.10$ . Requestor is seeking  $\$36.94 \times 2 \text{ units} = \$73.88$ . Recommend reimbursement of  $\$73.88$ .
- Code 97110 - Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings 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 (MRD) has reviewed the matters in light of the Commission requirements for proper documentation. The MRD declines to order reimbursement for code 97110 because the S.O.A.P. notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

### **ORDER**

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 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 Order is applicable to dates of service 12-10-03 through 2-18-04 as outlined above 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 26th day of October 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision



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Specialty Independent Review Organization, Inc.

Amended Report

October 12, 2004

David Martinez  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-04-2873-01  
IRO #: 5284

Specialty IRO 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 Specialty

IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty 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.

This case was reviewed by a licensed Chiropractor. The Specialty IRO 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 Specialty IRO 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

\_\_\_ was injured at work on \_\_\_ when she fell when tripped by shrink-wrap. She was a 66-year-old female with a history of diabetes at the time of accident. She measured 5'2" and weighed 160 lbs. according to the records. The records reviewed do not include anything prior to 12/4/03 when she presents to the office of Ted Krejci, DC. Physical therapeutics were begun on 12/8/03 at a rate of 3 x 6 weeks. A functional ability evaluation was performed on 12/10/03 and 1/5/04. Generally, functionality was improved. Further functional ability evaluations and rehabilitation was performed until she was sent for a home exercise protocol on 2/23/04.

#### DISPUTED SERVICES

Disputed services are: 99203, 99213, 99212, 97530-therapeutic activities, 97110 therapeutic exercises, 95833 muscle testing, 97112 neuromuscular re-education denied by the carrier with "U" codes.

#### DECISION

The reviewer disagrees with the previous adverse determination regarding the following services: 97110 (2/2/04 and 2/16/04), 97112 (2/18/04 1 unit), 99213 (2/16/04) and 99212 (2/18/04).

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

#### BASIS FOR THE DECISION

This lady was provided with a greater than four month rehabilitation program. She does have two major complicating factors of age and diabetes. She continued to improve in her FCE testing throughout 2/16/04. In fact, the therapeutic exercises improved her ROM and strength in most of the measurable categories. She was sent for a home exercise protocol on 2/23/04 according to Dr. Krejci's notes. The patient functionally improved; therefore, by Texas Labor Code 408.021 the services were medically necessary. Neuromuscular re-education was performed on 2/18/04 a time

component was not included in the notes; therefore, only one unit is authorized. The documentation of this date of service does not substantiate the medical necessity for two distinct units of CPT code 97112.

The 99203 charge on 2/2/04 is for a new patient examination. This is not proper code and is therefore, not medically necessary.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director