

MDR Tracking Number: M5-04-2919-01

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. The dispute was received on 5-5-04.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 5-5-04/ therefore the following date of service is not timely and is not eligible for this review: 5-2-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$650.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The FCE and work-hardening services from 5-8-03 through 7-28-03 and the therapeutic exercises from 5-5-03 through 6-6-03 **were found** to be medically necessary. The office visits, electrical stimulation, ultrasound, myofascial release, joint mobilization, massage, and chiropractic manual treatment, and provider's use of telephone call-physician/patient dates of service **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees 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 7-1-04 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.

CPT Codes 97545 and 97546 for dates of service 6-9-03 through 7-16-03 were denied with an "E". However, the explanation the insurance carrier gave for the "E" code is "No preauthorization." There is no TWCC 21 documenting an Extent issue on file. The provider has submitted a valid extension notice of preauthorization for 7-7-03 through 7-17-03. Therefore reimbursement shall be \$64.00 per hour according to the Medicine Ground Rules for the 96 Medical Fee Guidelines. **Recommend reimbursement of \$960.00.**

CPT Code 99213 for date of service 10-03-03 was denied with a "G". According to Rule 133.304 (c), Carrier didn't specify which service this was global to, therefore it will be reviewed according to the Medicare Fee Schedule. **Recommend reimbursement of \$65.21.**

This Findings and Decision is hereby issued this 28th day of October, 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

Pursuant to 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) for dates of service through July 31, 2003; 2003; 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 Decision is applicable for dates of service 5-5-03 through 11-14-03 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 28th day of October 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/da

September 14, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

REVISED REPORT
Corrected MDR Tracking # and Services in Dispute

Re: Medical Dispute Resolution
MDR #: **M5-04-2919-01**
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.:

Dear

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: letter of medical necessity, office notes, physical therapy notes, FCE, radiology reports and correspondence.

Information provided by Respondent: designated doctor exam.

Information provided by Treating Doctor: correspondence and office notes.

Clinical History:

The claimant was involved in a work-related event on ____. He sustained severe internal injuries including a right pneumothorax with pleural effusion, grade IV liver laceration, grade V renal injury, thoracic strain/sprain, and right shoulder sprain/strain. The worker

was transported immediately to the hospital from the scene of the accident.

On 02/28/03, the worker was initially seen by Dr. B regarding pain complaints of the low back, right shoulder, and rib pain. The claimant was initially treated with conservative applications that included manipulation, ultrasound, moist heat, interferential stimulation, and therapeutic exercise. Records show that Dr. B transitioned the claimant to active rehabilitation applications on/about 03/17/03.

Designated doctor examination by a chiropractor on 03/27/03 revealed that the claimant was not at maximum medical improvement (MMI). Radiographic series performed on 04/21/03 that included thoracic spine and lumbar spine films were unremarkable for osseous pathology. MR imaging of the thoracic spine on 04/21/03 did not reveal any structural pathology. Functional capacity evaluation (FCE) was performed on 05/08/03 and revealed that the claimant had positive psychosocial factors (anxiety/depression) and decreased functional status (tested at medium physical demand level). Evaluation on 05/13/03 revealed that the claimant had lumbar radiculitis, lumbar facet disease, sacroiliac joint disease and thoracolumbar disease: Continued physical therapy applications were recommended.

Peer review was performed on 05/30/03 and revealed a need for possible progression of this claimant to work conditioning/work hardening applications. Work-hardening services were preauthorized and then performed from 06/06/03 through 07/06/03 and from 07/07/03 through 07/31/04. The claimant received a 22% whole person impairment of function on 06/10/04, due to an error in prior impairment rating assigned on 11/25/03 when nephrectomy (10% whole person impairment) failed to be assigned.

Disputed Services:

Office visits, therapeutic exercises, electrical stimulation, ultrasound, myofascial release, functional capacity exam, telephone call-physician/patient, work hardening-initial & additional hours, chiropractic manual treatment-spinal, massage therapy and joint mobilization from 05/05/03 thru 11/14/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier as follows:

- services rendered from 05/05/03 through 06/06/03 that include office visits, electrical stimulation, ultrasound, myofascial release, and joint mobilization were not medically necessary in the management of this claimants condition.
- services rendered from 08/22/03 through 01/14/03 that included massage, office visits, and chiropractic manual treatment were not medically necessary in the management of this claimants condition.
- the provider's use of telephone call-physician/patient was not appropriate or medically necessary from 05/05/03 through 11/14/03.
- FCE and work-hardening services rendered from -05/08/03 through 07/28/03 were medically appropriate and necessary.
- implementation of therapeutic exercise from 05/05/03 through 06/06/03 was appropriate and medically necessary.

Rationale:

The claimant was involved in a work-related injury on ____ that resulted in severe internal

injuries ultimately ending in the removal of 1 kidney. Physician referral resulted in the assessed need for continued implementation of physical therapy therapeutics. Rationale for the carrier's denial of the provider's services from 05/05/03 through 11/14/03 in totality is not clear from the provided medical records. The provider's implementation of therapeutic exercises from 05/05/03 through 06/06/03 is appropriate in the management of this claimant's condition to allow transition of this worker to tolerate a work-hardening (return to work) program.

Functional capacity evaluation (FCE) that was performed on 05/08/03 revealed that the claimant had psychosocial factors that warranted further testing in a decreased physical demand level for his occupation as a construction worker. There was a clear need demonstrated for the progression of this claimant to an upper level program like work hardening.

The provider's application of passive therapeutics from 05/05/03 through 11/14/03 that included office visits, electrical stimulation, ultrasound, myofascial release, joint mobilization, massage, and chiropractic manual treatment is not appropriate in the treatment of this claimant's condition. There is no need established in the provided medical record that would warrant the continued application of passive management in the treatment of this claimant's condition.

The aforementioned information has been taken from the following guidelines of clinical practice and/or peer reviewed references.

- Carpenter, D. M. et al. *Low Back Strengthening for the Prevention and Treatment of Low Back Pain*. Med Sci Sports Exerc. 1999 Jan; 31 (1): 18-24
- Roberts-Yates, C. *The Concerns and Issues of Injured Workers in Relation to Claims/Injury Management and Rehabilitation: The Need For New Operational Frame Work*. Disabil Rehabil. 2003 Aug 19; 25 (16) 898-907.
- Schonstein, E. et al. *Work Conditioning, Work Hardening, and Functional Restoration For Worker's With Back and Neck Pain*. Cochran Database Syst Rev. 2003; (1): CD001822
- Van Der Windt, D.A. et al. *Ultrasound Therapy for Musculoskeletal Disorders; A Systematic Review*. Pain 1999 Jun; 81 (3): 257-71.

Sincerely,