

TEXAS WORKERS' COMPENSATION COMMISSION
MEDICAL REVIEW DIVISION, MS-48
MEDICAL DISPUTE RESOLUTION
FINDINGS AND DECISION

MDR Tracking Number: M5-04-2988-01

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. The disputed dates of service 4-30-03 through 5-9-03 are untimely and ineligible for review per TWCC Rule 133.308 (e)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the dates of service in dispute. This dispute was received on 5-11-03.

The IRO reviewed therapeutic exercises, office visits, prolonged service, physical performance test, unlisted procedure, and range of motion testing from 5-20-03 through 10-29-03.

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 from 5-20-03 through 7-22-03 and the first six visits of August 03 were medically necessary; also office visit 99214 on 5-27-03, 6-19-03, 7-18-03, and 8-14-03 were medically necessary; and the prolonged services 99358-52 on 6-13-03, 8-11-03, 8-18-03, and 10-14-03 were medically necessary. The IRO agreed that the office visits 99213 were not medically necessary from 5-20-03 through 10-29-03; the unlisted procedures 97799-MR were not medically necessary; and the physical performance test (97750-MT) and ROM (95851) 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 7-6-04, 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.

Division's rationale: Code 99080-73 was billed for date of service 7-17-03 and denied as "F, TD – the (TWCC-73) was not properly completed or was submitted in excess of the filing requirements." Per Rule 129.5, a work status report shall be filed. "...when the employee experiences a change in work status or a substantial change in activity restrictions...". The TWCC-73 was properly completed and filed. Recommend reimbursement of \$15.00.

Code 99358-52 was billed for date of service 7-10-03 and denied as "F, YF reduced or denied in accordance with the appropriate fee guideline." Per the 1996 Medical Fee Guideline, the MAR is \$82.00. The requestor billed \$42.00. Recommend reimbursement of \$42.00.

99080-73 billed for date of service 8-26-03 was denied as “F, TD - the TWCC-73 was not properly completed or was submitted in excess of the filing requirements – work status has not changed since last report dated 7-17-03.” Per Rule 129.5, a work status report shall be filed. “...when the employee experiences a change in work status or a substantial change in activity restrictions...”. Per the TWCC-73, the employee’s return to work date changed from 8-25-03 to 9-25-03. Recommend reimbursement of \$15.00.

The above Findings and Decision is hereby issued this 30th day of November 2004.

Medical Dispute Resolution Officer
Medical Review Division

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 the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- In accordance with Medicare program reimbursement methodologies for dates of service on or 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 5-20-03 through 10-14-03 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 30th day of November 2004.

Supervisor
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO Decision

MEDICAL REVIEW OF TEXAS
[IRO #5259]

3402 Vanshire Drive
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Austin, Texas 78738
FAX: 512-402-1012

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 11/29/04

TWCC Case Number:	
MDR Tracking Number:	M5-04-2988-01
Name of Patient:	
Name of URA/Payer:	Network of Physicians Management
Name of Provider: (ER, Hospital, or Other Facility)	Network of Physicians Management
Name of Physician: (Treating or Requesting)	Mark W. Crawford, DC

August 10, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Texas Workers Compensation Commission

CLINICAL HISTORY

Available documentation received and included for review involved an approximately 3-inch stack of records from Drs. Wellington (DC), Crawford (DC), Rodriguez (MD) and Tiongson (MD) including treatment and surgical notes, rehab notes, office visits.

Available record review reveals the following:

Mr. _____, a 23-year-old male, sustained injuries to his left arm and lower back after a 15 ft. fall off a roof where he was working as a roofer on 2/___/03. He underwent some conservative care, had a lumbar MRI performed which revealed L4/5 discal protrusion/herniation approaching the anterior thecal sac. EMG/NCV of the lower extremities on 4/29/03 revealed right sided L5/S1 radiculopathies. After a physical performance evaluation on 4/16/03 he was entered into an exercise rehabilitation program. Subsequent PPE on 5/6/03 showed no dramatic improvement. He was evaluated by Dr. Tiongson, a pain management specialist on 6/4/03, complaining of low back pain with occasional right leg pain, 4/10 level per VAS. Dr. Tiongson's impression was lumbar radiculopathy, facet arthropathy and disc disruption, he recommended ESI with prescriptions including Celebrex, Robaxin, Darvocet and Flexeril. ESI was performed on 6/24/03 and was responsible for a 50% reduction of pain by 7/2/03, patient complaining and that time of 2/10 pain level. By 8/6/03 his pain level had returned to 4/10 and so a 2nd lumbar epidural injection was recommended followed by two weeks of exercises. Following the second ESI (date unavailable) his pain again reduced to 2/10 and remained that way by 9/12/03 when he was seen for our any purposes by Dr. Rodriguez, an orthopedist specialist, who recommended two weeks of work conditioning.

REQUESTED SERVICE(S)

Medical necessity of therapeutic exercises (97110), office visits (99213, 99214), prolonged service (99358), physical performance test (97750), unlisted procedure (97799), range of motion measurements (t95851). 5/20/03-10/29/03.

DECISION

There is establishment of medical necessity for therapeutic exercises only between 05/20/03 and 07/22/03 as well as for only two weeks of care in

August (total six visits) following the 2nd ESI (date unavailable).

There is medical necessity for 99214 level of service on 5/27/03, 6/19/03, 7/18/03 and 8/14/03 only. There is no medical necessity for any other dates in the disputed timeframe.

There is medical necessity for the prolonged services (99358) "review of records" in the disputed timeframe.

There is no medical necessity for any of the 99213 office visits in the disputed timeframe.

There is no medical necessity for any of the unlisted procedures (97799) in the disputed timeframe.

There is no medical necessity established for the physical performance test (97750) or range of motion measurements (95851) in the disputed timeframe.

RATIONALE/BASIS FOR DECISION

The patient was diagnosed and treated conservatively for a lumbar sprain/strain/discopathy as of February 2003. He was then transitioned into an active rehabilitation program in mid April 2003, in an undeviating fashion of at least one hour of exercises three times per week. When the exercise régime to fail to reduce his pain, pain management interventions were instituted on 6/24/03.

It is relatively safe to say that an eight to ten week course of exercises (approximately 30 hours of one-on-one exercises) is more than sufficient to provide the patient with all the strengthening/stabilization that can be determined to be medically necessary. Four weeks of exercises following a lumbar epidural steroid injection is also sufficient to achieve additional gains as a result of a reduced pain level. A subsequent two week course following the second ESI is also sufficient, considering the amount of exercises this patient had already been exposed to.

August 10, 2004

Notice of Independent Review Determination

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RE: Mario A. Bernal

The patient was on essentially a relatively simple and an undeviating exercise rehabilitation program. It is reasonable to expect periodic evaluations to determine progress and therefore evaluation and management services on 5/27/03, 6/19/03, 7/18/03 and 8/14/03 are considered medically necessary. There is no rationale/medical reason for performing a 99213 level of service on

every exercise date encounter, however. Not only does the documentation not support the necessity for this, it does not support the level of service billed.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such and may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical/chiropractic probability and are totally independent of the requesting client.

References:

Hansen DT: Topics in Clinical Chiropractic, 1994, volume one, No. 4, December 1994, pp. 1-8 with the article "Back to Basics: Determining how much care to give and reporting patient progress".

Haldeman S., Chapman-Smith D, Peterson DM., eds. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen: Giathersburg, MD, 1993;

Souza T: Differential Diagnosis for a Chiropractor: Protocols and Algorithms, 1997; chapter 1, pp. 3-25.

Liebenson C. Commentary: Rehabilitation and chiropractic practice. JMPT 1996; 19(2):134140