

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 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on 5-17-04.

I. DISPUTE

Whether there should be reimbursement for CPT code 99080-69 and 97750.

II. FINDINGS

The IRO reviewed PPEs, CPT code 97750 rendered from 8-19-03 through 12-29-03 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. 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.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

The insurance carrier also denied reimbursement for 99080-69 rendered on 5-27-03 based upon "N - Not documented." Per Rule 130.3(a), a doctor is required to file a TWCC-69 when a claimant has reached maximum medical improvement. The requestor failed to submit a TWCC-69 to support fee dispute and challenge insurance carrier's position per Rule 133.307(g)(3)(B). Therefore, reimbursement is not recommended.

IV. DECISION

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor **is not** entitled to reimbursement for CPT code(s) 97750 and 99080.

The above Findings, Decision are hereby issued this 4th day of October 2004.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

Date: August 20, 2004

RE:

MDR Tracking #: M5-04-3058-01

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:

- Assorted medical dispute resolution request forms
- Multiple computerized range of motion evaluation reports for dates of service dated 5/27/03, 9/25/03, 10/20/03, 11/3/03, 11/17/03, 12/1/03, 12/15/03 and 12/29/03
- Peer review report by _____ dated 11/4/03
- HCFA forms and EOB's for dates of service noted from 8/9/03 through 12/29/03
- Table of disputed service for dates of service noted from 8/9/03 through 12/29/03
- Pre-authorization approval from _____ and _____ dated 6/1/04
- Attorney representation letter dated 6/1/04 and subsequent letter dated 7/20/04

Submitted by Respondent:

- Lab work results dated 2/11/00
- Neuro-evaluation report/referral report dated 4/18/02 from _____ and follow-up dated 6/2/02
- Assorted range of motion evaluation reports, 11/5/02, 11/19/02, 2/18/03, and 8/19/03
- TWCC decision and order report dated 2/10/03, regarding BRC hearing dated 11/14/02
- TWCC-62, notice of medical pay dispute dated 3/18/03
- Peer review report by _____ dated 3/18/03
- Designated doctor evaluation by _____ dated 4/10/03
- Plan and assessment report by _____ dated 5/2/03

- Assorted follow-up/re-check reports by _____ dated 7/2/03, 7/30/03, 12/5/03, 1/16/04
- Assorted IV therapy, epidural steroid injection procedure reports by _____ dated 7/9/03, 8/13/03, 8/27/03, 9/19/03 with accompanying follow-up reports dated 7/30/03, 11/12/03, 12/5/03 and 1/16/04
- Physical medicine evaluation report dated 7/14/03 by _____
- Table of disputed services, dates of service from 8/19/03 through 12/29/03
- Re-check or follow-up report by _____ dated 9/3/03
- MRI report of the lumbar spine dated 9/15/03 by _____
- Assorted Pain Care Notes from _____ dated 9/19/03
- Designated doctor report dated 11/4/03 by _____ stating maximum medical improvement on 11/2/03 and 10% impairment rating
- Assorted chart notes dated 9/23/03 through 5/25/04
- Initial consult with _____ dated 11/5/03
- Response letter dated 12/15/03 by _____ regarding designated doctor evaluation on 11/4/03
- TWCC response for assessment/decision clarification, dated 12/31/03 to designated doctor, _____, reflecting reports dated 10/14/03 and 11/4/03
- Letter to designated doctor, _____ dated 3/18/04 from _____ regarding designated doctor evaluation dated 5/14/03
- Assorted _____ pre-authorization letters dated 3/23/04, 4/23/04, 4/28/04 and 5/7/04
- Operative procedure reports dated 4/6/04 and 4/27/04
- Orthopedic referral evaluation dated 4/19/04
- _____ letter dated 4/28/04
- Assorted pre-auth faxes dated 5/25/04 and 5/28/04
- Neuro EMG testing, upper extremity(s) by _____ dated 6/3/04
- Re-evaluation of the cervical, lumbar and bilateral wrist chart notations dated 6/15/04 by _____

Clinical History

The claimant allegedly received bilateral wrist/hand injury (diagnosed as carpal tunnel syndrome) due to repetitive work related duties, sorting mail into section/compartments, reportedly while working for his employer, on or about ____, with later reported cervical and left upper extremity radicular symptoms on or about ____, which was documented as a supposed incident of boxes striking the claimant's head as a result of the claimant jumping off a stack of pallets (noted as approximately 6-7 feet up), which upon the claimant's impact with the ground the boxes were reported as falling and striking the claimant on his head which is noted as causing an immediate onset of neck pain, which progressively entered into the left arm, causing pain and numbness. (Additionally reported, low back pain upon prolonged sitting, bending and/or twisting, however, the neck and upper left extremity pain is reported, visual analog scale as 8/10. As late as 5/20/03, the initial evaluation by _____ resultant of cervical epidural steroid injection, C4-C7 and suggestive recommendation for future lumbar epidural steroid injections also noted.)

The claimant is noted to have underwent a full gamut of conservative care, diagnostic testing, EMG/NCV's, MRI testing, durable medical equipment, physical therapy, exercise program(s) and follow-up and/or repeat testing, still with continued pain complaints, over an approximate timeframe of 18 months. Inclusive in this timeframe were six (6) epidural steroid injection procedures, per designated doctor report on 11/4/03 by _____. who, in fact, found the claimant to be at statutory maximum medical improvement on or about 11/2/03 with reported impairment rating of 10% whole person.

Numerous evaluations, assessments and peer reviews concur to the claimant's chronic pain and radiculopathy, as associated with the said work related incident(s).

Per last available treating doctor chart note dated 6/12/04, _____ recommended that the claimant remain off duty status until re-evaluation by _____ the following week. Additionally reported, the EMG/NCV (suggestive of potential evidence of C6 radiculopathy with bilateral median nerve sensory neuropathy and right median neuropathy), performed on 6/3/04 and was by recommendation of _____ in order to differentiate median nerve and ulnar nerve neuropathy, from that point, as presented clinically.

Requested Service(s)

Please review and address the medical necessity of the outpatient services: 97750-Physical performance test for dates of service 8/19/03 through 12/29/03.

Decision

I agree with the insurance carrier and find that the evaluation and management code 97750 physical performance evaluation testing (PPE) for the dates of service 8/9/03, 9/25/03, 10/20/03, 11/3/03, 11/17/03, 12/1/03, 12/15/03, and 12/29/03 were not medically necessary.

Rationale/Basis for Decision

According to the documentation for review, this claimant apparently received a series of injections to include cervical, lumbar and sacroiliac and frankly, this is the only possible reason I could find as to the use of PPE testing, void of any reported documented rationale by the treating doctor. The use of this testing was not mentioned or discussed in the notes available for this review and, therefore, this is the only conclusion to be made. However, per the subsequent discussion, the rationale for its use, especially this amount, is questionable, based on the following points:

Concerning deficits, several of the other examining physicians had found no real degree of muscle weakness deficits, including the designated doctor examination on 11/4/03. There was some range of motion deficits present in the cervical and lumbar areas, however, none was present in the wrist area.

The treating doctor did not give any rationale or reasoning for this amount of PPE testing, nor how it was necessary in affecting or determining the treatment protocol.

Since the claimant was still in an indeterminate stage for possible surgical intervention and/or work conditioning/hardening possibilities throughout this disputed timeframe, the necessity for continued subsequent PPE testing is not reasonable or logical, whereas an FCE would be the test of choice prior to or subsequent to the determined treatment program utilized.

The goal of injection therapy is ultimately to decrease symptomatology (i.e. pain) and therefore increase functional abilities. One could argue that it would be reasonable for any authorized injection series to have a pre-PPE and post test, possibly to gauge benefit of function, especially if moderate to severe deficits were present involving both strength and range of motion. However, the judge for any continuation of the series is mainly based on decreased pain relief levels so the rationale for it, PPE, is usually not providing any real necessary information that would be that useful.

Furthermore, according to the designated doctor examination on 11/4/03, strength deficits were not present in relation to the cervical and lumbar areas on myotome manual testing or at least any at a moderate to severe level.

Range of motion was full for wrist areas, although decreases were noted in cervical and lumbar regions, but this is hardly reasonable to warrant the amount of PPE testing performed.

I might add that with any injection therapy it is customary to follow with post active therapy. The increased participation in the active program alone would be a basis for possible work condition or work hardening program, involvement rendering the PPE testing rather useless.

The documentation reported that the claimant would be involved in a work conditioning or work hardening program, especially if success was evident with relief of symptomatology. With this in mind, the necessity for PPE testing was not used to gauge return to work issues, or even whether or not this claimant could enter a return to work program. The program was apparently not based on any PPE results, and as reported was mainly due to symptomatic relief results.

This claimant again was not in the process of return to work throughout the timeframe, as recommended by the treating doctor, and other forms of treatment were being recommended. To find necessity in PPE testing is not established or supported concerning dates from 8/19/03 through 12/29/03 for this claimant according to the preceding rationale.