

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, 133.307 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 May 18, 2004.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that CPT Code 99213 for dates of service 06/09/03 through 09/12/03 and 09/30/03, except for CPT Code 99212, through 10/17/03 was not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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.

On July 1, 2004, 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 19 days of the requestor's receipt of the Notice.

- CPT Code 99212 (7) for dates of service 09/16/03 through 09/30/03 denied as "GLBL – Global". Per Rules 133.304(c) and 134.202(a)(4) the Carrier did not specify which service this was global to, therefore it will be reviewed according to the Medicare Fee Schedule. The reimbursable amount under Medicare and Rule 134.202(c)(1) is \$46.41; however, the requestor listed the amount in dispute as \$45.41 for each date of service; therefore, reimbursement in the amount of \$317.87 (\$45.41 x 7) is recommended.
- CPT Code 97110 for dates of service 09/16/03 through 09/26/03 denied as "UM07 – Z – Based on the information available at the time of review, the preauthorization for this service appears to have been denied". Per Rule 134.600 physical therapy does not require preauthorization. Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section 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 has reviewed the matters in light of all of the

Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. Reimbursement is not recommended.

- CPT Code 97140 (12 units) for date of service 09/16/03 through 09/26/03 denied as “UM07 – Z – Based on the information available at the time of review, the preauthorization for this service appears to have been denied”. Per Rule 134.600 physical therapy does not require preauthorization. Per Rule 134.202(b) and (c)(1) reimbursement in the amount of \$406.80 ( $\$27.12 \times 125\% = \$33.90 \times 12$ ) is recommended.
- CPT Code 97112 (6 units) for dates of service 09/16/03 through 09/26/03 denied as “UM07 – Z – Based on the information available at the time of review, the preauthorization for this service appears to have been denied”. Per Rule 134.600 physical therapy does not require preauthorization. Per Rule 134.202(b) and (c)(1) reimbursement in the amount of \$220.14 ( $\$29.35 \times 125\% = \$36.69 \times 6$ ) is recommended.

This Decision and Order is hereby issued this 29th day of October 2004.

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division

MF/mf  
Enclosure: IRO Decision

## **MEDICAL REVIEW OF TEXAS**

**[IRO #5259]**

**3402 Vanshire Drive                      Austin, Texas 78738**  
**Phone: 512-402-1400                      FAX: 512-402-1012**

### **NOTICE OF INDEPENDENT REVIEW DETERMINATION**

**REVISED 7/22/04**

TWCC Case Number:	
MDR Tracking Number:	M5-04-3105-01
Name of Patient:	
Name of URA/Payer:	Pain & Recovery Clinic
Name of Provider: (ER, Hospital, or Other Facility)	Pain & Recovery Clinic
Name of Physician: (Treating or Requesting)	Warren B. Dailey, MD

July 19, 2004

An independent review of the above-referenced case has been completed by a medical physician board certified in physical medicine and rehabilitation. 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: Rosalinda Lopez, Texas Workers Compensation Commission

CLINICAL HISTORY

This is a 20-year-old male who was the driver of a small delivery van who was sent for lunch. It is not clear if there was a period of inattention; however, he was struck on the passenger side by another vehicle. There was a tool box that reportedly struck the claimant in the ribs. He came under the care of Dr. Dailey who noted multiple soft tissue problems in the cervical, thoracic and lumbar spine. MRI imaging noted a small disc herniation which is not clear if this is a function of this particular mechanism of injury or not. An evaluation

by Dr. Ali led to a request for invasive and aggressive injections prior to assessing if more conservative care would be of benefit. Physical therapy and chiropractic care was then initiated. Electrodiagnostic testing was wholly normal. Without any objectified benefit, continued chiropractic care was delivered and augmented by physical therapy modalities. There were additional providers and assessments. This case consists of myofascial strain and complaints of pain.

#### REQUESTED SERVICE(S)

99212 and 99213; 97032; 97140; 97110; 97250; 97265 97112 – Multiple dates of service from 6/9/03 through 10/17/03.

#### DECISION

Denied. This is not reasonable and necessary care.

#### RATIONALE/BASIS FOR DECISION

For the most part, it is the same diagnosis codes used three times a week for five months. The first code, 99213, is for a patient visit that requires evaluation for an expanded problem and expanded history. This may have occurred once, but not three times a week. This is clearly excessive billing.

The other codes, therapeutic exercise, myofascial release, joint mobilization, and neuromuscular re-education are related to chiropractic care. Chiropractic treatment is the subject of much debate and has only shown very limited efficacy in studies. Koes et al. reports in the article Spinal manipulation for low back pain. An updated systematic review of randomized clinical trials. (Spine 1996 Dec 21(24):2860-71) that “the efficacy of spinal manipulation for patients with acute or chronic low back pain has not been demonstrated with sound randomized clinical trials. There certainly are indications that manipulation might be effective in some subgroups of patients with low back pain.” There is substantial data to indicate that chiropractic treatment may not be any more effective than placebo. In the article Second Prize: The effectiveness of physical modalities among patients with low back pain randomized to chiropractic care: findings from the UCLA low back pain study. (J Manipulative Physiol Ther. 2002 Jan; 25(1):10-20.) “Physical modalities used by chiropractors in this managed-care organization did not appear to be effective in the treatment of patients with LBP, although a small short-term benefit for some patients cannot be ruled out.” Most significantly in an analysis performed by Northwestern College of Chiropractic, Bloomington, Minnesota (Neurol Clin. 1999

Feb; 17(1):91-111) the author reports that “based on the most recent and comprehensive systematic reviews, there is moderate evidence of short-term efficacy for spinal manipulation in the treatment of both acute and chronic low back pain. The evidence is also not conclusive for the long-term efficacy of spinal manipulation for any type of low back pain.” The literature is exhaustive in regards to the lack of clinical data to support chiropractic treatment as efficacious or as a long term solution to back pain. One recent and revealing study by Ferreira et al. Does spinal manipulative therapy help people with chronic low back pain? (Aust J. Physiother. 2002; 48(4):277-84). finds “It is concluded that spinal manipulation does not produce clinically worthwhile decreases in pain compared with sham treatment, and does not produce clinically worthwhile reductions in disability compared with NSAIDs for patients with chronic low back pain.” Several studies did indicate appropriate parameters for treatment. In the article Chiropractic manipulation in low back pain and sciatica: statistical data on the diagnosis, treatment and response of 576 consecutive cases. (J Manipulative Physiol Ther. 1984 Mar; 7(1):1-11) the author found “for all conditions treated, the average number of days to attain maximum improvement was 43 and the number of visits 19. It was concluded that this study provided useful data for assessment of routine chiropractic office based diagnosis and treatment of related conditions; however, further controlled studies are necessary for validation of specific parameters.” The claimant’s current treatment for shoulder pain has an equal amount of studies that indicate an equal lack of efficacy.

Therefore, noting that the procedures in question all occurred six months from the date of injury and that the literature demonstrates no real efficacy in chiropractic modalities in the long-term or chronic applications; the care delivered was not indicated as reasonable and necessary. What is particularly troubling is that with no appreciable gain in the complaints or reduction in the symptoms, the same treatment plan was delivered for five months.