MDR Tracking Number: M5-04-3248-01

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. This dispute was received on 5-26-04.

The IRO reviewed medical necessity of range of motion testing, manual muscle testing, office visit, manual therapy, therapeutic exercises and work hardening program.

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

The IRO concluded that care rendered on 7-18-03 and 8-22-03 were medically necessary. The IRO concluded that all other treatment was not medically necessary.

On this basis, the total amount recommended for reimbursement ($105.40) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. 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 July 14, 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 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

On 11-5-03, the requestor obtained preauthorization approval for 10 work hardening visits.

The respondent denied reimbursement for services with EOB denial "Z-X388 and A – X170 –preauthorization was requested but denied for this service per TWCC Rule 134.600.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$ (Maximum Allowable Reimbursement)	Reference	Rationale
10-23-03	97750MTQU (4)	$564.16	$512.48	F	$36.94 X 4 = $147.76	CPT code	Paid
11-3-03 11-12-03 11-13-03 12-8-03 12-12-03	97545WH	$128.00	$102.40	F	$64.00/hr	CARF Accredited effective 10-21-02	The difference between MAR and amount paid = $25.60 X 5 dates = $128.00.
11-3-03 11-12-03 11-13-03 12-8-03 12-12-03	97546WH	$384.00	$307.20	F	$64.00/hr		The difference between MAR and amount paid = $102.40 X 5 dates = $512.00.
11-10-03	97545WH	$128.00	$0.00	U	$64.00/hr	Rule 133.301(a)	Carrier violated Rule 133.301(a) by retrospectively denying preauthorized treatment based upon medical necessity payment of $128.00 + $384.00 = $512.00 is recommended..
11-10-03	97546WH	$384.00	$0.00	U	$64.00/hr		
11-18-03 thru 12-17-03	97545WH 97546WH	$128.00 $256.00-$384.00	$0.00	Z, A	$64.00/hr	Rule 134.600	No written evidence that preauthorization was obtained, no reimbursement is recommended.
TOTAL							The requestor is entitled to reimbursement of **$** 1152.00.

ORDER.

Pursuant to §§402.042, 413.016, 413.031, and 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) 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 7-18-03 through 12-19-03 in this dispute.

This Order is hereby issued this 26th day of January , 2005.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

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

TWCC Case Number:	
MDR Tracking Number:	M5-04-3248-01
Name of Patient:	
Name of URA/Payer:	Main Rehab & Diagnostic
Name of Provider: (ER, Hospital, or Other Facility)	Main Rehab & Diagnostic
Name of Physician: (Treating or Requesting)	Osler Kamath, DC

July 27, 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: Rosalinda Lopez, Texas Workers Compensation Commission

CLINICAL HISTORY
Patient underwent physical medicine treatments, work hardening and eventual injections after injuring his neck at work on ___.

REQUESTED SERVICE(S)
Range of motion (95851), manual muscle testing (95831), office visits (99213), manual therapy (97140), therapeutic exercises (97110) from 07/18/03 to 10/23/03 and work hardening (97545-WH and 97546-WH) on 10/28/03, 10/30/03 and 12/10/03.

DECISION
The care on 07/18/03 and 08/22/03 is approved. All other treatment is denied.

RATIONALE/BASIS FOR DECISION
Based on the history and initial examination of this patient, treatment for a six-week period would be considered medically necessary. For that reason, the care rendered on 07/18/03 and 08/22/03 is approved. However, since the patient's pain was still rated at 9 on 08/25/03, it documents that the six weeks of treatment had failed to relieve the patient's symptoms. Therefore continuing a failed treatment or moving to more intensive exercise – in the form of work hardening – was not medically indicated.

For all practical purposes, legitimate daily progress notes regarding the patient's treatment and response to care were not furnished since the treatment notes were almost verbatim for each and every visit. As a result, there was no documentation supplied to support the medical necessity for any treatment beyond six weeks and certainly no documentation for the medical necessity of work hardening.

Office Visits (99213) were reported on most every patient encounter. TWCC Medical Fee Guidelines state that when

reporting office visits where chiropractic spinal adjustments are performed, 99213-MP should be utilized. However, in the absence of performing spinal adjustments (which the daily progress notes fail to mention), then the stand-alone reporting of 99213 must be supported by documentation that reflects an extended history was taken, and an extended examination was delivered (per *Current Procedural Terminology*). Because the records submitted fail to fulfill this requirement of CPT, all office visits (99213) are denied on that basis alone.

Finally, no documentation was presented to indicate that chiropractic spinal adjustments were performed at any time. According to a study published in Spine[1], chiropractic spinal manipulation yielded the best results for chronic spinal pain. Based on that finding, this reviewer does not understand why a doctor of chiropractic would withhold this type of treatment while performing a host of other therapies and procedures. That is especially perplexing since the physician's records *repeatedly* noted cervical spine "fixations." Since those problems were not appropriately addressed through chiropractic adjustments, this reviewer is not at all surprised that the patient failed to experience any significant relief from the therapeutic exercises and work hardening program.

[1] **Giles LGF, Muller R. Chronic Spinal Pain - A Randomized Clinical Trial Comparing Medication, Acupuncture, and Spinal Manipulation. *Spine* 2003; 28:1490-1503.**