

MDR Tracking Number: M5-04-3522-01

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, 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 06-15-04.

The IRO reviewed therapeutic exercises and muscle testing rendered from 11-19-03 through 12-30-03 that were denied based upon "U".

The IRO determined that the therapeutic exercises **were** medically necessary. The IRO determined that the muscle testing **was not** medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the **majority** of 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 \$460.00** 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.

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 09-28-04, 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.

Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's for CPT code 97024 date of service 11-13-03. Review of the HCFA reflected proof of submission. This code is therefore reviewed according to the Medical Fee Guideline effective 08-01-03. Reimbursement in the amount of \$5.54 is recommended.

Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's for CPT code 97139-EU date of service 11-13-03. Review of

the HCFA reflected proof of submission. This code is therefore reviewed according to the Medical Fee Guideline effective 08-01-03. Reimbursement in the amount of \$18.26 is recommended.

CPT code 95851 date of service 11-25-03 denied with denial code "G". Per Rule 133.304(c) carrier did not specify which service code 95851 was global to. The services are reviewed per the Medical Fee Guideline effective 08-01-03. Reimbursement in the amount of \$30.61 is recommended.

CPT code 99212-25 dates of service 12-08-03, 12-10-03, 12-12-03, 12-15-03, 12-17-03 and 12-19-03 denied with denial code "G". Per Rule 133.304(c) carrier did not specify which service code 99212-25 was global to. The services are reviewed per the Medical Fee Guideline effective 08-01-03. Reimbursement in the amount of \$251.46 (\$41.91 times six (6) dates of service).

CPT code 95851 date of service 01-05-04 denied with denial code "G". Per Rule 133.304(c) carrier did not specify which service code 95851 was global to. The services are reviewed per the Medical Fee Guideline effective 08-01-03. Reimbursement in the amount of \$23.15 is recommended.

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 11-13-03 through 01-05-04 in this dispute.

This Findings and Decision and Order are hereby issued this 7th day of October 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

MEDICAL REVIEW OF TEXAS
[IRO #5259]
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NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 8/19/04

TWCC Case Number:	
MDR Tracking Number:	M5-04-3522-01
Name of Patient:	
Name of URA/Payer:	
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	

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,

CLINICAL HISTORY

Available documentation received and included for review consist of records from Drs. M (DC) including treatment notes, rehab notes, office visits and functional assessment reports.

Available record review reveals the following:

____, a nurse, sustained injuries to her left arm while lifting a patient. She was lifting a patient with her elbow bent when she developed numbness and tingling down her left arm. She went to the emergency room three days later, was treated subsequently by Dr. I and Dr. B, and had two weeks of physical therapy without success. She then changed treating physicians to Dr. M, chiropractor who saw her on 11/7/03. She was diagnosed with an elbow sprain/strain, with medial and lateral epicondylitis and myofascial pain syndrome. She was placed on a conservative treatment régime consisting of modalities and manual therapies, progressing to more active exercise régime. Success with this treatment program was noted in the records

REQUESTED SERVICE(S)

Medical necessity of therapeutic exercises (97110) and muscle testing (97750) for dates of service 11/19/03-12/30/03.

DECISION

Regarding 97110 (therapeutic exercises), there is establishment of medical necessity for all disputed services (8 units per encounter).

Regarding functional testing (97750), there is no medical necessity established for any additional units above 4 units (1 hour of testing) on 11/26/03 or 12/16/03.

RATIONALE/BASIS FOR DECISION

The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

Regarding therapeutic exercises, the patient was placed on a fairly comprehensive exercise régime with some benefit. Although somewhat more extensive than would be considered for a uniquely right upper extremity problem, multiple foci with respect to strengthening/conditioning were addressed in terms of a "work capacity approach", which was appropriate considering this patient occupation as a nurse.

Regarding the functional assessment (97750) on 11/26/03, the documentation indicates that a fairly comprehensive assessment was also performed on 11/25/03. That report indicated mensuration, 5-position grip and pinch strength tests, static (NIOSH) lift test, elbow range of motion and dynamometric elbow strength tests. The additional testing on 11/26/03 indicates cervical strength, single and 10 repetitions of exercises and a VO2 assessment. There is no establishment of the necessity for the cervical testing / VO2 assessment. There is also no established of necessity for the single/multiple repetition assessments in addition to the previous day's testing. This information is easily obtained and is part of the patient's normal exercise routine (especially considering the multiple units billed per encounter) and utilizing the previous day's dynamometric assessment information. Four units had already been paid as medically necessary; there is no evidence of necessity for paying any additional units on this date.

A similar argument can be made for the amount of testing performed on 12/16/03. One hour of testing is more than sufficient.

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