MDR Tracking Number: M5-04-3747-01

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 6-12-03 through 6-16-03 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 6-18-04.

The IRO reviewed hot/cold packs, electrical stimulation, therapeutic exercises, gait training, manual traction, myofascial release, manual therapy, joint mobilization, muscle testing, office visits, electrical stimulation (unattended), and ROM on 7-25-03, 7-29-03, 8-5-03, and 8-7-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. The IRO concluded that the office visits, therapeutic exercises, manual traction, joint mobilization, manual therapy, and muscle testing on 7-25-03, 7-29-03, 8-5-03, and 8-7-03 were medically necessary. The IRO agreed with the previous determination that the electrical stimulation, hot/cold packs, electrical stimulation (unattended), gait training, myofascial release, and range of motion were not medically necessary. 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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. On 7-28-04, 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.

Dates of service 6-19-03, 6-20-03, 6-23-03, 6-26-03, 6-30-03, 7-7-03, 7-9-03, 7-15-03, 7-16-03, 7-18-03, 7-25-03, 7-29-03: Codes 97010 & 97265 denied as "O, 717 and 713 – value included in another procedure and charge exceeds scheduled value."

Per the 1996 MFG medicine ground rule I A 10 a, physical therapy session is limited to any combination of four modalities or procedures. Requestor billed for six to seven modalities and/or procedures. Therefore, no reimbursement recommended.

Codes 97010, 97110 (3 units), 97116 (2 units), 97140, 99213, and G0283 (2 units) billed for date of service 8-1-03 were denied as 'N – not documented.'

Clinical notes support documentation requirements for 99213 and 97116; therefore, recommend reimbursement of $47.20 x 125% = $59.00 for 99213 and $23.01 x 125% = $28.76 X 2 units = $57.52 for 97116. Code 97010 is not reimbursed separately per Medicare. Regardless of whether it

is billed alone or in conjunction with another therapy code, additional payment will not be made. Payment is included in the allowance for another therapy service/procedure performed on the same day. Therefore, no reimbursement recommended. Code 97110 - **RATIONALE:** Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings 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 (MRD) has reviewed the matters in light of the Commission requirements for proper documentation. The MRD declines to order payment for code 97110 because the clinical notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment. Codes 97140 and G0283 – clinical notes did not include these codes/services.

Code 97010 billed on dates of service 8-5-03 and 8-7-03 was denied as "G, 284 – indicates a status 'B' bundled code."

The Trailblazer Local Coverage Determination (LCD) states that code 97010 "is a bundled code and considered an Integral part of a therapeutic procedure(s). Regardless of whether it is billed alone or in conjunction with another therapy code, additional payment will not be made. Payment is included in the allowance for another therapy service/procedure performed. Therefore, no reimbursement recommended.

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 7-25-03 through 8-7-03 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 23rd day of November 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division
Enclosure: IRO Decision

Amended Report

November 19, 2004

Hilda Baker
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3747-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

Based on the records received, the injured employee ___ was injured in a work related accident on ___. The injured employee was working for when she was performing her normal duties as a cashier when she turned around to get some cigarettes and tripped over a box and fell over. She injured her right leg and lower back. This is the mechanism of injury as described by the records. The injured employee was seen by Dr. Schafer at the Texas MedClinic, Dr. Welch at the Perrin Beitel MedClinic and subsequently by Dr. Rivera who remains the treating doctor for the purpose of this review.

The records include but are not limited to the following: Records received from the carrier, Records received from the treating doctor, Peer review from Dr. Osborne, Peer review from Dr. Hamby,

Peer review from Dr. Hayes, Multiple TWCC 73's, TWCC 53 changing from Dr. Welch to Dr. Rivera, Treatment notes from Texas MedClinic, Treatment notes from Dr. Rivera, Diagnostic tests from Dr. Rivera, Behavioral Medicine Consultation from Anna Flores and Claudia Ramirez, MRI form Southwest Open MRI, Electrodiagnostic Examination from Dr. Dutra, FCE's from Alpine Healthcare, Pain Management Consultation from Dr. Keszler, Multiple HCFA's and Multiple EOB's.

DISPUTED SERVICES

The services in dispute are: 97010 Hot/Cold Pack, 97032 Electrical Stimulation, 97110 Therapeutic Exercises, 97116 Gait Training, 97122 Manual Traction, 97250 Myofascial Release, 97140 Manual Therapy, 97265 Joint Mobilization, 97750-MT, 99213 Office Visit, G0283 Electrical Stimulation Unattended, 95851-ROM. Dates of service under review are: 7-25-03, 7-29-03, 8-5-03, and 8-7-03.

DECISION

The reviewer disagrees with the previous adverse decision regarding 99213 for the dates in question.

The reviewer agrees with the previous adverse decision regarding 97032 for the dates under review.

The reviewer agrees with the previous adverse decision regarding 97010 for the dates under review.

The reviewer disagrees with the previous adverse decision regarding 97110 for the dates under review.

The review agrees with the previous adverse decision regarding G0283 for the dates under review.

The reviewer agrees with the previous adverse decision regarding 97116 for the dates under review.

The reviewer agrees with the previous adverse decision regarding 97250 for the dates under review.

The reviewer disagrees with the previous adverse decision regarding 97122 for the dates under review.

The reviewer disagrees with the previous adverse decision regarding 97265 for the dates under review.

The reviewer disagrees with the previous adverse decision regarding 97140 for the dates under review.

The reviewer agrees with the previous adverse decision regarding 95851-ROM for the dates under review.

The reviewer disagrees with the previous adverse determination regarding 97750-MT for the dates under review

BASIS FOR THE DECISION

The basis for the determination is based upon the Medical Disability Advisor, Evidence Based Medical Guidelines, and Medicare Policies. Specifically it should be noted that hot and cold packs are treatment measures that could easily be administered in a home setting and there is no need for clinical supervision of these services. In addition, passive modalities beyond the acute phase are clinically unnecessary without supporting documentation as to their specific need. There is also no supportive documentation to support the need of attended modalities versus unattended modalities. Therapeutic exercises, joint mobilization, and manual traction are considered an appropriate treatment measure for individuals with low back pain according to the MDA. The documentation does not support the need for gait training due to the fact that there is no identifiable neurological deficit in which the patient specifically needs gait training. In addition, the documentation does not support the need for myofascial release in this patient over the alternative of massage therapy. The office visits meet the standard of TLC 408.021 in that the patient does show improvement with treatment. The MDA identifies that most patients recover from a disc injury within 6 months and this treatment falls within the 6 month time period for a disc injury. Although the diagnostic testing does show improvement in the patient, the diagnostic testing doe not specifically alter or change the treatment plan or method of treatment and therefore would not be considered necessary.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director