MDR Tracking Number: M5-04-3803-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June17, 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.

In accordance with Rule 133.308 (e)(1), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the dates of service in dispute. The Commission received the medical dispute resolution request on 07-06-04, therefore the following dates of service are not timely: 6/04/03 through 7/03/03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the 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** 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 the therapeutic exercises rendered from 7/09/03 through 7/23/03 **were found** to be medically necessary. The myofascial release, ultrasound, and electrical stimulation services rendered from 7/09/03 through 7/23/03 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 August 2, 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.

CPT Codes 97250, 97035, and 97014 for dates of service 7/28/03 through 7/30/03 were denied by the carrier for N-not appropriately documented. Review of the information submitted by the requestor does not adequately demonstrate the these services were rendered on the dates in dispute. Therefore, reimbursement is not recommended.

CPT code 97110 for dates of service 7/28/03 through 7/30/03 were denied by the carrier for N-not appropriately documented. 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 has reviewed the matters in light 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. Additional reimbursement not recommended.

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 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 Order is applicable to dates of service 7/09/03 through 7/23/03 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 Decision and Order is hereby issued this 4th day of October 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

08/18/2004

David Martinez
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3803-01
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 with a specialty in Rehabilitation. 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

___ was injured on ___ while working for the and the _____ ____. She measures 5'4" and weighs approximately 125 lbs. according to the records. The patient has a previous history of surgery to the right wrist in 1994. Records were received and reviewed from both the requestor and respondent. Dr. T, MD is the treating doctor of this case. ___ has been treated with all forms of treatment to include passive, active, medicinal and surgical treatments. An NCV on 5/17/01 indicated right cubital tunnel syndrome as per Dr. B, MD. The patient was seen at Lancaster Medical Center in July of 2001 at an Occupational Therapy Center. Dr. S, MD saw the patient for RME examinations in July of 2001 and May of 2002.The later visit notes state that Dr. S believes that up to four surgeries could be necessary to help this patient. He also performed an EMG/NCV study indicating left ulnar neuropathy. Dr. M, MD performed an EMG on 2/4/02 indicating bilateral cubital tunnel syndrome and bilateral carpal tunnel syndrome. Dr. N, MD, designated doctor, placed the patient at MMI on 9/12/02 with a 3% WP IR. A cubital tunnel release was performed on 3/14/03 by Dr. T. The patient was referred for physical therapy on 4/14/03 by Dr. T to Physical Therapy Source and ___, PT. The initial evaluation notes indicate right elbow flexion of 112 degrees and extension of -92 degrees, Supination of 45 degrees and right wrist flexion of 43 degrees. The remainder of ROM's were not clear as per the submitted documentation. Dr. T prescribes a TENS unit for pain control at home on 6/17/03. The patient was placed through four sessions of 12-15 therapy sessions. Dr. T continued to order physical therapy services through 7/15/03 when he ordered 3 x 4 weeks of services. Notes in the file from the respondent contained other records regarding an unknown patient named ___. On 8/29/03, Dr. B, MD performed an RME. A TWCC 73 with permanent restrictions was filed by Dr. T on 9/23/03.

DISPUTED SERVICES

Disputed services include myofascial release, therapeutic exercises, ultrasound and electrical stimulation (unattended) from 7/9/03 through 7/23/03.

DECISION

The reviewer disagrees with the previous adverse determination regarding the following CPT code and dates of service: 97110 (from 7/9/03 through 7/23/03).

The reviewer agrees with the previous adverse determination regarding all other services in dispute.

BASIS FOR THE DECISION

The reviewer notes that the patient continued to improve with the therapeutic exercises that were performed as per the submitted case and examination notes. This is in compliance with TLC 408.021 indicating a medically necessary service. The reviewer states that the continued passive therapies (US, stimulation and myofascial release) four months following a surgical procedure were not medically necessary as per the current studies on ultrasound and stimulation techniques in the Journal of Pain. Secondly, the treating doctor only referred for physical therapy and did not mention the need for passive physiological therapeutics. The Medical Disability Advisor by Dr. R, MD indicates that the above-approved treatments fall within expected disability guides after a cubital tunnel surgery as was performed on this patient. It is the reviewer's medical judgment that these passive procedures should have been accomplished in a home setting with the TENS unit as continued passive therapies are known to cause patient dependence on formal treatments.

References:
Gam AN, Johannsen F. Ultrasound therapy in musculoskeletal disorders: a meta-analysis. Pain 1995;63:85-91.

Herrera-Lasso I, Mobarak L, Fernandez-Dominguez L, Cardiel MH, Alarcon-Segovia D. Comparative effectiveness of packages of treatment including ultrasound or transcutaneous electrical nerve stimulation in painful shoulder syndrome

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,