

MDR Tracking Number: M5-04-3897-01

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 07-12-04.

The IRO reviewed office visits and physical medicine procedures rendered from 10-07-03 through 12-10-03 that were denied based upon "V".

The IRO determined that code **97110** for dates of service 12-10-03 and code **99213** for all dates reviewed **were not** medically necessary. The IRO determined that code **97110** for dates of service 10-07-03, 10-10-03, 10-14-03, 10-15-03 and 10-16-03 **were** 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 \$650.00** 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 08-26-04, 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.

CPT code 97110 for date of service 10-08-03 denied with denial code D. 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.

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 10-07-03 through 10-16-03 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

August 24, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-3897-01
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 Doctor of Osteopathy with a specialty in Physical Medicine and 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

This is a 27 year old male who injured his left elbow at work on _____. He was tightening a piece of a barrel with his tool when he lost his grip and developed left elbow pain. An MRI was unremarkable as well as EMG. He was diagnosed with tendonitis. He was treated with medications, injections and physical therapy. He did not get any better and on 10-30-2003 he underwent left epicondylar release performed by Dr. C. Prior to his surgery he was treated with therapeutic exercises.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of physical medicine and office visits (99213, 99212 and 97110) for 10/7/03, 1/10/03, 10/14/03, 10/15/03, 10/16/03, 10/20/03, 10/29/03 and 12/10/03.

DECISION

The reviewer agrees with the previous adverse determination for the following services/dates: 97110 (12/10/03), 99213 (all dates under review).

The reviewer disagrees with the previous adverse determination regarding the following services: 97110 (10/7/03, 10/10/03, 10/14/03, 10/15/03 and 10/16/03).

BASIS FOR THE DECISION

The reviewer notes that the patient underwent therapeutic exercises on the dates in question. The reviewer further notes that the services were well documented. However, regarding the office visits, the reviewer notes that the visits were not documented as is required to establish medical necessity and to document the face to face contact with a physician as per the E&M requirements. Therefore, these services were denied. The denial of 12/10/03 CPT code 97110 is due to the lack of documentation of this date of service with the provided records.

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,