

MDR Tracking Number: M5-04-3954-01

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 07-20-04.

The IRO reviewed office visits, physical performance test, muscle testing, unlisted therapeutic procedure, therapeutic exercises, chiropractic manipulation, massage, mechanical traction, therapeutic procedures-group, supplies and materials and diathermy rendered from 08-05-03 through 12-02-03 that were denied based upon "U".

The IRO determined that the services rendered through 08-18-03 **were** medically necessary and services rendered after 08-18-03 **were 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 did not prevail** on the **majority** of issues of medical necessity. 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.

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 08-11-04, 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.

EOB's provided by the respondent for CPT code **97139-EU** dates of service 08-01-03 and 08-04-03 indicated payment in full. Contact was made with the requestor's office (Rusty Chandler) at 979-822-2225 and payment was verified. These services will not be reviewed by the Medical Review Division.

EOB provided by the respondent for CPT code **99080-73** date of service 09-17-03 indicated payment in full. Contact was made with the requestor's office (Rusty Chandler) at 979-822-2225 and it was verified that no payment has been received. This service will be reviewed by the Medical Review Division.

Although the EOB from the respondent for CPT code **99080-73** date of service 09-17-03 indicated payment in full the requestor verified no payment received. The requestor submitted relevant information to support delivery of service therefore reimbursement in the amount of **\$15.00** per the Medical Fee Guideline effective 08-01-03 is recommended.

CPT code **99070** (TENS consumable supplies and analgesic balm) date of service 07-21-03, date of service 07-23-03 (Sitback Rest DME #22), date of service 07-29-03 (Positex Personal Wedge DME #30) denied with denial code M/426 (reimbursed fair and reasonable). Per 96 MFG GENERAL INSTRUCTIONS GR III (A) documentation was submitted to support the services billed. Additional reimbursement is recommended for the TENS supplies in the amount of **\$3.75** (\$25.00 billed - \$21.25 paid), analgesic balm **\$6.32** (\$8.00 billed - \$1.68 paid), Sitback Rest DME #22 **\$4.27** (\$28.50 billed - \$24.23 paid), Positex Personal Wedge DME #30 **\$42.00** (\$87.00 billed - \$45.00 paid).

CPT code **72110-WP** date of service 07-23-03 denied with an F denial code (Fee guideline MAR reduction). Per the 96 MFG RADIOLOGY/NUCLEAR MEDICINE GR I(A)(2) the MAR for this service is \$100.00. The EOB indicates a payment of \$100.00 made. No additional reimbursement recommended.

CPT code **97124** date of service 08-01-03 denied with denial code F/435 (the value of the procedure is included in the value of the comprehensive procedure/Fee guideline MAR reduction). This service is not included in the comprehensive procedure. The Medical Fee Guideline effective 08-01-03 recommends a reimbursement of \$25.70 (\$20.56 X 125%), however the requestor only disputes the amount of \$25.69 therefore reimbursement in the amount of **\$25.69** is recommended.

CPT code **97024** date of service 08-06-03 denied with denial code F/213 (charge exceeds the scheduled value and/or parameters that would appear reasonable/Fee guideline MAR reduction). The requestor submitted relevant information to support delivery of service. The Medical Fee Guideline effective 08-01-03 recommends a reimbursement of \$5.54 (\$4.43 X 125%), however the requestor only disputes the amount of \$5.53 therefore reimbursement in the amount of **\$5.53** is recommended.

CPT code **97139-EU** date of service 08-06-03 denied with denial code F/214 (charge exceeds the scheduled value and/or time parameters that would appear reasonable/Fee Guideline MAR reduction). The requestor submitted relevant information to support delivery of service. The Medical Fee Guideline effective 08-01-03 recommends a reimbursement of \$18.26 (\$14.61 X 125%), however the requestor only disputes \$18.25 therefore reimbursement in the amount of **\$18.25** 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 07-21-03 through 08-18-03 and 09-17-03 in this dispute.

This Findings and Decision and Order are hereby issued this 12th day of October 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

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NOTICE OF INDEPENDENT REVIEW DECISION

October 4, 2004

Re: IRO Case # M5-04-3954

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic who is licensed in Texas, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to

Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Provider's position statement 8/13/04
4. Reviews 2/22/04, 10/5/03, 10/20/03, 10/27/03; 11/12/03, 12/13/03; 12/12/03; 9/7/03
5. D.C. initial narrative report 7/21/03
6. TWCC work status reports
7. D.C. subsequent narrative reports 8/7/03, 9/23/03
8. Range of motion reports
9. Therapeutic procedures notes
10. Exercises grid sheets
11. MRI report of lumbar and thoracic spine 8/4/03
12. Report 8/19/03
13. Reports 8/21/03, 8/31/03
14. Employers first report of injury

History

The patient injured her middle and lower back in ___ when she lifted a pallet above her head. She felt a pop in her back. She sought the care of a chiropractor, and she was treated with therapeutic exercises, medication, manipulation, and various passive therapy modalities.

Requested Service(s)

OV, Physical performance test, muscle testing, unlisted therapeutic procedure, therapeutic exercises, chiropractic manipulation, massage, mechanical traction, therapeutic procedures – group, supplies and materials, diathermy 8/5/03 – 12/2/03

Decision

I agree with the carrier's decision to deny the requested services after 8/18/03, and I disagree with the decision to deny treatment through 8/18/03.

Rationale

The patient deserved an initial trial of conservative treatment, but its continuation past the initial six visits is based on relief of symptoms and/or improved function. Based on the records provided for this review, the patient received little, if any, benefit from treatment through the first ten visits, dating to 8/18/03. Her VAS was still 7/10 as of 8/21/03, and she could only walk a short distance without having to stop and rest. She still had a positive

straight leg raise of 30 degrees, and could only flex her lumbar spine to 45 degrees with severe pain as of 8/31/03. This was after several weeks – around 15 treatment sessions – of intensive treatment from the treating D.C.

Treatment was inappropriate and ineffective. The documentation provided does not justify continued failed treatment past 8/18/03, either subjectively, or objectively. The records fail to show functional improvement, progression of the rehabilitation program, or a move toward self-directed care.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.