THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER: SOAH DOCKET NO. 453-05-4470.M5

MDR Tracking Number: M5-04-4006-01

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. This dispute was received on July 22, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. The following services **were found** to be medically necessary: manual therapeutic techniques, gait training, office vists, 3 units of therapeutic activities on 01-05-04, 01-09-04, 01-12-04, 01-14-04, and 01-16-04; 4 units of therapeutic activities on 01-19-04, 01-21-04, 01-23-04, 01-26-04, 01-28-04, 01-30-04, 02-02-04, 02-04-04, 02-06-04, 02-09-04, 02-11-04, 02-13-04, 02-16-04, 02-18-04 and 02-20-04; 5 units of therapeutic activities on 02-23-04, 02-25-04 and 02-27-04; and 4 units of therapeutic activities on 03-01-04, 03-03-04, 03-05-04, 03-08-04, 03-10-04. The range of motion measurements, and all other units in excess of the approved **were not found** 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.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On August 23, 2004, the Medical Review Division submitted a Notice to the 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.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$ (Max. Allowable Reimbursement)	Reference	Rationale
12-29-03	97750	$37.00	$0.00	G	$36.94	Medicare Fee Schedule, Rule 133.304 (c) and	Carrier did not specify which service this was global to, therefore, 97750 will be reviewed according to the

						134.202(a)(4)	Medicare Fee Schedule. Reimbursement recommended in the amount of $36.94.
01-12-04	97750	$37.00	$0.00	G	$37.05	Medicare Fee Schedule, Rule 133.304 (c) and 134.202(a)(4)	Carrier did not specify which service this was global to, therefore, 97750 will be reviewed according to the Medicare Fee Schedule. Reimbursement recommended in the amount of $37.00.
01-26-04	97750	$37.00	$0.00	G	$37.05	Medicare Fee Schedule, Rule 133.304 (c) and 134.202(a)(4)	Carrier did not specify which service this was global to, therefore, 97750 will be reviewed according to the Medicare Fee Schedule. Reimbursement recommended in the amount of $37.00.
TOTAL		$111.00					The requestor is entitled to reimbursement of $110.94.

This Findings and Decision is hereby issued this 25th day of January 2005.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

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) and in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (b); 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 for dates of service 12-29-03 through 03-11-04 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 25th day of January 2005.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/pr

Enclosure: IRO Decision

Amended Decision

October 26, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-4006-01
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 reviewer is on the TWCC ADL. 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 working for ___ when he was injured in a work related accident. ___ was injured on ___ when a trailer that was struck by an oncoming car struck him. He initially presented to Dr. Duncan at Las Colinas Medical Center for emergency care and was referred to

Dr. Newton for evaluation of a tibial plateau fracture. The patient was placed in a knee immobilizer and recommended to have a CT scan and lab work.

The patient subsequently presented to Dr. Allen on 10-20-2003 for evaluation and treatment of his injuries. The patient was referred to an MRI of the right knee on 10-27-2003. The MRI performed at Texas Imaging revealed a comminuted tibial plateau fracture with depressive fragments. The patient subsequently presented to Dr. McConnell on or about 11-20-2003. The patient then underwent surgical repair of the knee on 12-09-2003 with Dr. McConnell.

After the surgical repair to the right knee, the patient underwent post surgical rehabilitation with Dr. Allen beginning on or about 12-29-2003 and continuing through 03-11-2004.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of 95851 – ROM, 97530 – Therapeutic Activities, 97140 – Manual Therapy, 97116 – Gait Training and Office Visits from 12/31/2003 through 3-11-2004.

DECISION

The reviewer agrees with the previous adverse decision regarding 95851 for all dates of service reviewed.

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

The reviewer disagrees with the previous adverse decision regarding 97116 for all dates of service under review.

The reviewer disagrees with the previous adverse decision regarding 99213 for all dates of service under review.

For dates of service 1-5-04, 1-7-04, 1-9-04, 1-12-04, 1-14-04, 1-16-04 the documentation supports 3 units total of 97530 and not 4 units. It is unclear by the documentation how many units were actually billed or paid.

For dates of service 1-19-04, 1-21-04, 1-23-04, 1-26-04, 1-28-04, 1-30-04, 2-2-04, 2-4-04, 2-6-04, 2-9-04, 2-11-04, 2-13-04, 2-16-04, 2-18-04, 2-20-04, the documentation supports 4 units total of 97530 and not 5 units.

For dates of service 2-23-04, 2-25-04, 2-27-04, the documentation supports 5 units of 97530.

For dates of service 3-1-04, 3-3-04, 3-5-04, 3-8-04, 3-10-04 the documentation supports 4 units of 97530.

BASIS FOR THE DECISION

The basis for the determination is based upon the Medical Disability Advisor, Evidenced Based Medicine Guidelines, and Medicare Payment Policies. It should be noted that throughout the documentation, the provider routinely quoted how many units he was billing for 97530, but the documentation did not support the amount of units billed when adding up the specific times of each therapy billed. The provider should review the Medicare payment policies regarding times and units billed for further clarification.

The patient underwent the appropriate phases of rehabilitation for the injury in question. The MDA notes 5 phases of rehabilitation for serious knee injuries. The question of gait training, therapeutic activities, and manual therapies would be appropriate. In regards to the range of motion studies and muscle testing, the documentation does not support the billing for the code 95851 due to the fact that there is no report regarding the measurements other than listing the data and there is no interpretation of the data and the test is not used clinically to alter or change the patients treatment plan and there is no clinical correlation of the data. The office visits would be appropriate to allow the provider to monitor and measure the progress of the patient and initiate changes in the treatment protocol if warranted.

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