

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER: 453-05-0858.M5

MDR Tracking Number: M5-04-4082-01

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 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on July 29, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic exercises on 05-05-04 and 05-07-04 **were found** to be medically necessary. The electrical stimulation (G0283), ultrasound (97035), office visits (99214 & 99205), and massage therapy (97124) from 03-08-04 through 05-07-04 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 05-05-04 and 05-07-04 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 9<sup>th</sup> day of September 2004.

Medical Dispute Resolution Officer  
Medical Review Division  
PR/pr

### **Amended Independent Review Decision**

September 1, 2004

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

Patient:  
TWCC #:  
MDR Tracking #: M5-04-4082-01  
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 injured on \_\_\_ while working as a custodian for the \_\_\_\_\_. \_\_\_ fell from a ladder when his foot got caught causing him to strike the ground with his right side of his body, head and right arm. He was 72 years of age at the time of accident. He initially presented to the office of Dr. P, MD who referred him to the Emergency Room at Methodist Hospital. He was given medications and x-rays. He went to his family physician, Dr. I, MD who did not accept workers compensation cases. Therefore, he went to see Dr. S, DC. Dr. S began treating the patient on 12/29/03. Initial examination revealed severe/crippling scores on the Oswestry forms in both the neck and back. Pain scales were rated as 7-8/10, decreased UE and LE strength was noted on the right, reflexes +2/symmetrical. The patient was diagnosed with a head contusion, lumbar radiculitis, hip, cervical and thoracic sprain strain, elbow derangement, shoulder derangement, paresthesia and myospasm. No further notes are available regarding the treatment of Dr. S from the requestor or respondent.

Records reviewed were from both the treating/requesting doctor and respondent (insurance carrier). Records reviewed include but are not limited to the following: From the requestor: 3/30/04, 4/30/04, 7/6/04 and 8/3/04 letters from Dr. R to Ms. M, 2/9/04 peer review by Dr. B, DC, DACBN, CCN, 3/9/04 IME by Dr. L, DC, 12/29/03 initial report by Dr. S, DC, 1/27/04 MRI of the lumbar spine and right elbow, 3/8/04 initial examination report by Dr. R, 3/19/04 cervical and right shoulder MRI report, script dated 4/26/04 for PT from Dr. N, 3/29/04 left shoulder MRI report, reports from Dr. N, MD, 5/5/04 re-evaluation by Dr. R and 5/24/04

response to Dr. D's report by Dr. R. From the respondent: TWCC 21 dated 3/24/04, multiple peer reviews/IME's as listed above, Dr. C, MD, FAAPMR peer review, 7/26/04 letter from Dr. N.

At the reviewer's request, additional records were requested from the treating doctor as the notes regarding two of the dates of service under review were not included in the initial documentation provided by either party. The requestor sent two dates of 'Daily Patient's Record' (5/5 and 5/7/04). These records were received on 8/27/04 and were taken into consideration of the final determination. The carrier was contacted by a SIRO employee to determine if they had further information. They chose not to send further information.

### DISPUTED SERVICES

Disputed services include G0283, 97035, 97110, 99214, 99205 and 97124 from dates of service 3/8/04 through 5/7/04

### DECISION

The reviewer disagrees with the previous adverse determination regarding the therapeutic exercises (97110) on the dates of service under review.

The reviewer agrees with the previous adverse determination regarding all other services under review.

### BASIS FOR THE DECISION

The reviewer notes that as per the records provided by both parties there is no indication that therapeutic exercises had been attempted to help this patient improve. The reviewer states that passive therapies (Ultrasound, massage and electrical stimulation) were not appropriate in the chronic stage of treatment. The reviewer indicates that date of service 3/8/04 is billed as a 99205. The documentation provided does not meet the requirements of either the 2004 CPT codebook regarding E&M services or the requirements of the Trailblazer/CMS website. There is no indication of the patient improving with the dates of service under review; however, two dates of service is not enough time to demonstrate an ability to improve this patient. Therefore, the reviewer finds these services to be medically necessary as per TLC 408.021. Lastly, there is indication in the notes that this patient should not be rehabilitated due to his age. The reviewer finds this disturbing and indicates that this person should be given the appropriate medical care to ensure his quality of life is as good as possible regardless of age.

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,