

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-05-4909.M5

MDR Tracking Number: M5-04-4123-01

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 08-04-04.

Date of service 08-01-03 per Rule 133.308(e)(1) was not timely filed and will not be reviewed by the Medical Review Division.

The IRO reviewed office visits, chiropractic manipulative treatments-spinal, electrical stimulation, ultrasound, massage therapy, thoracic rib belt and therapeutic exercises rendered from 08-04-03 through 05-03-04 that were denied based upon "U".

The IRO determined that office visits (99214) on dates of service 08-05-03, 09-08-03, 10-13-03, 11-10-03, 12-15-03 and 02-23-04, chiropractic manipulative treatment (98940) from 08-27-03 through 09-03-03, chiropractic manipulative treatment (98943) from 08-11-03 through 03-10-04, therapeutic exercises (97110) from 08-05-03 through 12-15-03 and 03-18-04 through 04-18-04, massage therapy (97124) from 08-05-03 through 09-03-03, electrical stimulation (97032) from 08-05-03 through 09-03-03, ultrasound (97035) from 08-05-03 through 09-03-03 and thoracic rib belt (L0210) on 08-08-03 **were** medically necessary. The IRO determined that office visits (99211/99212/99213) on all dates from 08-05-03 through 05-03-04 with the exception of 08-05-03, 09-08-03, 10-13-03, 11-10-03, 12-15-03, 01-26-04, 02-23-04 and 03-29-04, ultrasound (97035), massage therapy (97124), electrical stimulation (97032/G0283) from 09-04-03 through 05-03-04 and therapeutic exercises (97110) from 12-16-03 through 03-17-04 and 04-19-04 through 05-03-04 **were not** medically necessary.

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 09-14-04, 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 98943 dates of service 10-24-03, 10-27-03, 10-29-03, 10-31-03, 11-05-03, 11-07-03, 11-12-03, 11-14-03, 11-17-03 and 11-24-03 denied with denial code "G/05" (global/the value of the procedure is included in the value of another procedure performed on this date of service). Per Rule 133.304(c) the carrier did not specify which service code 98943 was global to. The services are reviewed per the Medicare Fee Schedule effective 08-01-03. Reimbursement is recommended in the amount of \$339.40 (\$33.94 X 10 DOS).

CPT code 98940 date of service 11-05-03 denied with denial code "G/05" (global/the value of the procedure is included in the value of another procedure performed on this date of service). Per Rule 133.304(c) the carrier did not specify which service code 98940 was global to. The services are reviewed per the Medicare Fee Schedule effective 08-01-03. Reimbursement is recommended in the amount of \$32.84.

CPT code 99455 date of service 12-23-03 denied with denial code "U" (unnecessary medical without peer review). Per Rule 134.202(e)(6)(B) code 99455 is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter. Reimbursement is recommended in the amount of \$50.00.

Review of CPT code 99213 date of service 04-14-04 revealed that neither party submitted an EOB. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for an EOB. The MAR per the Medicare Fee Schedule is \$76.25 (\$53.80 X 125%). The requestor billed \$65.21 therefore this is the recommended reimbursement.

Review of CPT code 97110 date of service 04-14-04 revealed that neither party submitted an EOB. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for an EOB. Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section 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 of all of the Commission requirements for proper documentation. Reimbursement is not recommended.

Review of CPT code G0283 date of service 04-14-04 revealed that neither party submitted an EOB. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for an EOB. Reimbursement per the Medicare Fee Schedule is recommended in the amount of \$14.35 (\$11.48 X 125%).

Review of CPT code 97124 date of service 04-14-04 revealed that neither party submitted an EOB. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for an EOB. Reimbursement per the Medicare Fee Schedule is recommended in the amount of \$28.09 (\$22.47 X 125%).

This Findings and Decision is hereby issued this 10th day of February 2005.

Debra L. Hewitt
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 Medicare program reimbursement methodologies effective August 1, 2003 per Commission Rule 134.202(c), 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 08-05-03 through 04-14-04 in this dispute.

This Order is hereby issued this 10th day of February 2005.

Margaret Ojeda, Manager
Medical Dispute Resolution
Medical Review Division

MQO/dlh

Enclosure: IRO Decision

November 2, 2004
January 5, 2005
January 11, 2005
January 21, 2005
January 24, 2005
January 27, 2005
February 3, 2005

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

REVISED REPORT

Re: Medical Dispute Resolution
MDR #: M5-04-4123-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: IRO 5055

Dear Ms. ____:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in chiropractic and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

- Statement of position 10/11/04
- Subsequent medical reports 04/01/03 – 03/29/04

- Nerve conduction studies 10/23/03 – 11/13/03
- Radiology reports 04/05/03 – 08/05/03

Information provided by Respondent:

- Designated doctor evaluation 06/03/04

Information provided by Family Practitioner:

- Office notes 06/03/03 – 02/10/04

Information provided by Pulmonologist:

- Office notes 03/09/04 – 04/07/04
- Pulmonary function test 03/09/04
- Radiology reports 03/16/04 – 03/17/04

Information provided by Pain Mgmt. Specialist:

- Procedure report 03/18/0

Information provided by D.O.:

- Office notes 12/17/03 – 01/28/04

Information provided by Orthopedic Surgeon:

- Office note 08/13/03

Clinical History:

The claimant was working when he was involved in an accident on _____. The claimant noted that he sustained a concussion. The accident fractured the left 4th through 7th ribs. The worker presented to the office of the chiropractor on 05/30/03. He was diagnosed with rib fractures, post-concussion syndrome, respiratory disfunction, left

shoulder strain/sprain, cervical sprain/strain, and lumbar strain/sprain. MR imaging of the lumbar spine performed on 08/05/03 revealed the claimant had an L4/L5 disc protrusion, mild facet/ligamentary hypertrophy at L4/5, L5/S1, and congenital stenosis of the L4 through S1 motion segments. MR imaging of the sacrum and SI joints performed on 08/05/03 was clinically unremarkable.

On 08/13/03 the worker consulted with an orthopedist. The claimant was advised to decrease splint use, and to progress to rehabilitation as tolerated. EEG performed on 10/23/03 was unremarkable. Electrodiagnostic, (EMG/NCV) performed over the bilateral lower quarter on 11/13/03 revealed the claimant had a left L5 and right S1 radiculopathy. MR imaging of the cervical spine performed on 07/06/04 revealed a subligamentous herniation at C5/C6 measuring 3-4 mm causing minimal compression of the ventral cervical cord. Worker had lumbar epidural series performed on 03/18/04. The claimant consulted with a pulmonary disease and occupational medicine specialist on 04/07/04 and was advised that the claimant was not at maximum medical improvement in reference to lung function and that status should be monitored over the next few months. Claimant consulted with a designated doctor on 06/03/04, and was advised that the claimant would reach anticipated maximum medical improvement on about 09/03/04.

Disputed Services:

Office visits, chiropractic manipulative treatments-spinal, electrical stimulation, ultrasound, massage therapy, thoracic rib belt and therapeutic exercises during the period of 08/04 03 thru 05/03/04.

Decision:

The reviewer partially disagrees with the determination of the insurance carrier as follows:

Medically Necessary:

- 99214 on 08/05, 09/08, 10/13, 11/10, 12/15/2003, 02/23/2004
- 98940 from 08/27/03 thru 09/03/03
- 98943 from 08/11/03 thru 03/10/04
- 97110 from 08/05/03 thru 12/15/03 and from 03/18/04 thru 04/18/04
- 97124 from 08/05/03 thru 09/03/03
- 97032 from 08/05/03 thru 09/03/03
- 97035 from 08/05/03 thru 09/03/03
- L0210 on 08/08/03

Not Medically Necessary:

- 99211/99212/99213 on all dates from 08/05/03 thru 05/03/04, with the exception of 08/05, 09/08, 10/13, 11/10, 12/15/2003, 01/26, 02/23, 03/29/2004
- 97035, 97124, 97032, G0283 from **09/04/03** thru 05/03/04
- 97110 from 12/16/03 thru 03/17/04 and from 04/19/04 thru 05/03/04

Rationale:

The claimant was involved in a motor vehicle accident that resulted in osseous pathology (left 4th-7th rib fractures), slight concussion, and musculoskeletal trauma, (subligamentous herniation at C5/C6, L4/L5 disc bulging that flattens the thecal sac/ventral 5 nerve root sleeves, broad-based S1 posterocentral protrusion, mild

ligamentum flavum/facet hypertrophy at L4/L5 and L5/S1, and congenital stenosis of the L4/S1 motion segments). The claimant was a candidate for conservative musculoskeletal rehabilitation applications that included manipulation, massage, electrical stimulation, and ultrasound for a controlled time limited implementation.

Medical record indicates that the claimant initiated treatment with the provider on/about 05/30/03 and was placed on a trial of conservative applications. A trial of 16 weeks of passive applications represents an appropriate time-limited course of passive therapeutics in the management of this claimant's condition.

Active rehabilitation management of this claimant, including the thoracic rib belt, was appropriate and medically necessary and appears to have transitioned the claimant towards a greater active component from 08/04/03 through 12/15/03. In addition, a 4-week trial of active rehabilitation applications following epidural steroid injection series, performed on 03/18/04 was appropriate in the management of this claimant's condition. Review of the records does not contain sufficient medical necessity to warrant continued applications of active rehabilitation therapeutics beyond 12/15/03 through 03/17/04 and from 04/18/04 through 05/03/04. The claimant showed no continued improvement in AROM and a transition to functional base testing would have been appropriate.

The aforementioned information has been taken from the following guidelines of clinical practice and/or peer reviewed references.

- Karjalaine, N. K., et al. Multidisciplinary Biocycle Social Rehabilitation for Subacute Low Back Pain Among Working Age Adults. Cochran Database Syst Rev. 2003;(200):cd002193.
- Lyth, J. R. Disability Management and Functional Capacity Evaluations: A Dynamic Resource. Work. 2001;(16)1;13-22.
- Overview of Implementation of Outcome Assessment Case Management In The Clinical Practice. Washington State Chiropractic Association; 2001. 54p.
- Rosenfield, M. et al. Active Intervention in Patient's With Whiplash Associated Disorders Improves Long Term Prognosis: A Randomized Controlled Clinical Trial. Spine. 2003 Nov 15;28(22):2498-8.
- Trionovich, S. J. et al. Structural Rehabilitation of The Spine And Posture: Rationale for Treatment Beyond Resolution Of Symptoms. J Manipulative Physiol Ther. 1998 Jan;21(1):37-50.

Sincerely,

Gilbert Prud'homme
Secretary & General Counsel

GP:thh