

MDR Tracking Number: M5-04-4173-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 8-09-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the 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 \$460** 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.

The IRO has determined that the ultrasound, mechanical traction, massage, chiropractic manipulative treatments, therapeutic procedures, therapeutic activities, physical performance test and office visits from 12/12/03 through 1/19/04 that were denied with a "U" were medically necessary. Although CPT code 98943 was denied for medical necessity on 12/08/03, it is an invalid code and therefore not considered part of the IRO review (see rationale below). The respondent raised no other reasons for denying reimbursement for the above listed service.

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 August 31, 2004, 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 97035** for dates of service 11/19/03 through 12/4/03 was denied by the carrier with "F", fee guideline reduction. However, no payment was made. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service for the above dates (except 11/26/03). Reconsideration EOBs reflect that date of service 11/26/03 had been submitted twice but still denied. **Reimbursement is recommended** from 11/19/03 through 12/4/03 in the amount of \$113.68 in accordance with the Fee Guidelines.

**CPT code 98943** for dates of service 11/19/03 through 12/4/03 was denied by the carrier with "G", unbundling. This code reports a procedure, service or supply that is not covered or valid for

Medicare. Rule 134.202 (b) states: “for coding, billing, reporting, and reimbursement of professional medical services, Texas Workers’ Compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section. Therefore, **reimbursement is not recommended**.

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 Medicare program reimbursement methodologies for dates of service after 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 Order is applicable to dates of service 11/19/03 through 1/19/04 as outlined above 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 Decision and Order is hereby issued this 15th day of October 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division

September 28, 2004

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

Patient:  
TWCC #:  
MDR Tracking #: M5-04-4173-01  
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

Based on the records reviewed, \_\_\_ was working as a cashier for \_\_\_ on \_\_\_ when she was injured. \_\_\_ was opening a gun display when the security glass door came off the top hinge and fell towards her. The glass door hit her right shoulder and then her lower back. The glass broke upon hitting the patient. She reported low back pain and to a lesser extent, tight shoulder pain.

Records were received from the carrier and the treating doctor.

Letter from \_\_\_ dated September 2, 2004  
Letter from \_\_\_ to MDR dated September 2, 2004  
Consilium MD peer review by Dr. H  
Consilium MD peer review by Dr. O  
Docket WS-04-312448-01-CC-WS41  
Functional Capacity Evaluation 1-16-2004  
Treatment notes from Dr. R  
TWCC-69 and report by Dr. R  
Report from Dr. K  
Independent Review Organization Summary by Unimed  
Examination notes by Dr. R  
TWCC-73's  
Review by Dr. O

### DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of 97035-ultrasound, 97012-mechanical traction, 97124-massage, chiropractic manipulative treatment, 97110-therapeutic

procedures, 97530-therapeutic activities, office visits and 97750-physical performance test from 12-12-2003 through 1-19-2004.

## DECISION

The reviewer disagrees with the previous adverse decision.

## BASIS FOR THE DECISION

The basis for the determination is based upon the Medical Disability Advisor, Evidenced Based Medicine Guidelines, and Medicare Payment Policies. Also considered were the Mercy Guidelines. It should be noted that the patient was injured on \_\_\_ and her care extended from 11-6-2003 through 1-26-2004. The patient also had multiple body parts injured. With the documentation notes and the fact that the patient did improve with care, the treatment is considered within acceptable standards. According to the records reviewed the patient did make significant improvement with her care in both subjective and objective measures.

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,