

MDR Tracking Number: M5-04-4342-01

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 08-24-04.

The IRO reviewed office visits, application of modality, manual therapy, therapeutic exercises, unusual travel, functional capacity exam, neuromuscular stimulator, electrodes and replacement batteries rendered from 01-21-04 through 06-15-04 that were denied based upon "U and V".

The IRO determined that code 99212-25 billed on dates of service 01-21-04, 01-28-04 and 02-04-04 and code 97110 billed on dates of service 01-21-04, 01-28-04, 02-04-04, 02-06-04 and 02-09-04 and code 97750-FC billed on date of service 02-12-04 **were** medically necessary. The IRO determined that all remaining services billed **were not** medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the **majority** of 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 \$460.00** 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.

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 10-11-04, 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.

CPT codes **97035, 97110, 97140, G0283 and 99082** on date of service 01-19-04 denied for contracted provider. The requestor did not challenge the carrier's denial rationale. Neither party submitted a copy of the negotiated contract. No reimbursement is recommended.

Reconsideration EOB's only were submitted for CPT code **G0283** date of service 01-20-04 and CPT codes **97035, 97140 and 97110** dates of service 01-20-04 and 02-02-04. The Medical Review Division cannot determine the original denial reason, therefore no reimbursement is recommended.

CPT code **99080-73** dates of service 01-21-04 and 02-09-04 denied for medical necessity with denial code "U". The TWCC-73 is a required report and is not subject to review by the IRO. The Medical Review Division has jurisdiction in this matter and, therefore, recommends reimbursement in the amount of **\$30.00** (\$15.00 X 2 DOS).

Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's for CPT code **99212** dates of service 03-05-04 and 04-02-04. Review of the reconsideration HCFA's reflected proof of submission. The services are reviewed per the Medical Fee Guideline effective 08-01-03. The Medical Fee Guideline reimbursement is \$46.65 (\$37.32 X 125%) the requestor, however, only listed \$44.74 for each date of service in dispute, therefore reimbursement in the amount of **\$89.48** (\$44.74 X 2 DOS) is recommended.

Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's for CPT code **99080-73** dates of service 03-05-04 and 04-02-04. Review of the reconsideration HCFA's reflected proof of submission. The services are reviewed per the Medical Fee Guideline effective 08-01-03. Reimbursement per the Medical Fee Guideline effective 08-01-03 is recommended in the amount of **\$30.00** (\$15.00 X 2 DOS).

Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's for code **A4556-NU** date of service 03-16-04. Review of the reconsideration HCFA reflected proof of submission. The services are reviewed per the Medical Fee Guideline effective 08-01-03. Reimbursement in the amount of **\$24.28** (\$12.14 X 2 units) is recommended.

Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's for code **A4630-NU** for date of service 03-16-04. Review of the reconsideration HCFA reflected proof of submission. The services are reviewed per the Medical Fee Guideline effective 08-01-03. Reimbursement in the amount of **\$6.25** is recommended

Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's for code **E0745-NU** for date of service 03-16-04. Review of the reconsideration HCFA reflected proof of submission. The services are reviewed per the Medical Fee Guideline effective 08-01-03. Reimbursement in the amount of **\$495.00** 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 01-21-04 through 04-02-04 in this dispute.

This Findings and Decision and Order are hereby issued this 13<sup>th</sup> day of October 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

10/07/2004

Hilda Baker  
TWCC Medical Dispute Resolution  
7551 Metro Center Suite 100  
Austin, TX 78744

Patient:  
TWCC #:  
MDR Tracking #: M5-04-4342-01  
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 while working for \_\_\_ on \_\_\_. She was injured when she slipped and twisted her knee and felt a pop. She reported a lumbar injury as well. The patient is 5'5 and weighs 185 lbs. She underwent passive and active treatment with Dr. F, DC. An MRI was performed on 12/9/03 and indicated a very mild bone contusion along the lateral tibial plateau, stage II CMP. She was referred to Dr. D, MD, who opined that she had left patellar chondral or medial femoral chondral tearing. He recommended anti-inflammatory meds. He provided a PT script recommending left knee rehab for four weeks.

On 1/15/04, he recommended an additional four weeks of therapy. He was referred to Dr. A, MD on 1/20/04. The assessment does not indicate a left knee diagnosis, it appears that only the lumbar spine was examined and treated. An PPE was performed on 1/9/04. Knee range of motion was basically equivocal compared to the uninjured side. All left sided strengths were increased by 40-50% as compared to the right. The FCE on 2/12/04 indicated reduced range of motion in both knees as compared to the 1/9/04 PPE. Negative progress was made as it concerns leg muscle strength testing. A work conditioning program was recommended based upon these results. DME was prescribed throughout treatment. The patient was given a 0% IR on 3/10/04.

Records were received and reviewed from the respondent. The records include: 9/27/04 'response to 7 day letter' from Flahive, Ogden and Latson (FOL), 9/14/04 letter by FOL, TWCC 60 with table of disputed services, 5/20/04 peer review by DR. M, MD. Records were received and reviewed from the requestor/treating doctor. The records include: 5/20/04 peer review by Dr. M, MD request for reconsideration letter, IR report of 3/10/04, re-exam report 1/12/04, occupational injury report of \_\_\_\_, daily notes from 1/20/04 - 4/2/04 by Dr. F, DC, Left knee MRI 12/9/03, rehab notes 01/19/04-2/9/04, consultation notes of Dr. A, MD (1/20/04), notes by Dr. D, MD (12/19/03, 1/16/04), PT script by Dr. D, MD 12/18/03 and 1/15/04, FCE 2/12/04, PPE 01/09/04, DME script 1/14/04, 2/16/04, 3/16/04.

#### DISPUTED SERVICES

Disputed services include office visits (99212-25), 97035 application of modality, 97140 manual therapy, 97110 therapeutic exercises, 99211-25 (OV), 99082 unusual travel, 97750-FC FCE, E0745-RR neuromuscular stimulator, a4556-nu electrodes and a4630 replacement batteries.

#### DECISION

The reviewer disagrees with the previous adverse determination regarding the following dates of service: **99212-25**- (1/21/04, 1/28/04, 2/4/04); **97110**- (1/21/04, 1/28/04, 2/4/04, 2/6/04, 2/9/04); **97750-FC**- (2/12/04).

The reviewer agrees with the previous adverse determination regarding all remaining services.

#### BASIS FOR THE DECISION

The reviewer notes that there are no daily notes which address the medical necessity of the DME requests from 2/16/04, 5/17/04 through 6/15/04. Therefore, these services cannot be found to be medically necessary based upon the available documentation. The therapeutic exercises did not improve the patient's condition as per the enclosed documentation, in fact, the patient's strength and ROM actually worsened during the second four weeks of rehabilitation. However, the treatment is within the standard of care and is approved as there was no way to know that the patient would not improve. There is no indication that the patient was benefiting from the continued passive therapies beyond four weeks (1/4/04). There is no documentation of the unusual travel. The Medical Disability Advisor indicates that most knee contusion heal within

six weeks. However, with the patient being overweight this could lead to increased treatment needs.

References:

Bonfiglio, Richard, L. Anita Cone, and Francis Lagattuta. "Pathophysiology of Soft Tissue Injuries." Soft Tissue Injuries: Diagnosis and Treatment. Windsor, Robert, and Dennis Lox, eds. Philadelphia: Hanley & Belfus, Inc, 1998. 1-11.

Kisner, Carolyn, and Lynn Allen Colby. Therapeutic Exercise: Foundations and Technique, 2nd ed. Philadelphia: F.A. Davis, 1990.

Mooar, Pekka. "The Thigh, Knee, and Patella." Musculoskeletal Primary Care. Gates, Sharon, and Pekka Mooar, eds. Philadelphia: Lippincott Williams & Wilkins, 1999. 217-249.

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,