

MDR Tracking Number: M5-04-4347-01

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 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.

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 following services were medically necessary:

- physical performance test, office visits, massage therapy, therapeutic exercises, therapeutic activities, and chiropractic manipulative treatments-spinal (3-4 regions) rendered from 8/29/03 through 9/12/03
- chiropractic manipulative treatments-spinal (3-4 regions) on 11/21/03, 12/19/03, 12/22/03 and 2/2/04.
- chiropractic manipulative treatment-spinal on 3/03/04.

The neuromuscular re-education, massage therapy, office visits, therapeutic exercises, chiropractic manipulative treatments (except those outlined above), therapeutic activities, electrical stimulation, hot/cold packs therapy, ultrasound, muscle testing services that were denied with "V" and rendered from 9/15/03 through 3/4/04 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 September 17, 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 98940 for date of service 9/15/03- Review of the requester's and respondent's documentation revealed that neither party submitted copies of EOBs. However, review of the reconsideration HCFA and certified mail receipt reflected proof of billing in accordance with Rule 133.308 (f)(3). Therefore, **reimbursement is recommended in the amount of \$30.14.**

CPT code 95831-59 for date of service 10/24/03-Review of the requester's and respondent's documentation revealed that neither party submitted copies of EOBs. However, review of the reconsideration HCFA and certified mail receipt reflected proof of billing in accordance with Rule 133.308 (f)(3). Therefore, **reimbursement is recommended in the amount of \$200.46 (6 units)**

CPT code 97124 for dates of service 10/31/03 and 12/19/03- Review of the requester's and respondent's documentation revealed that neither party submitted copies of EOBs. However, review of the reconsideration HCFA and certified mail receipt reflected proof of billing in accordance with Rule 133.308 (f)(3). Therefore, **reimbursement is recommended in the amount of \$51.40.**

CPT code 97124 for dates of service 2/23/04 and 2/25/04 were denied by the carrier with "F", fee guideline reduction. However, no payment was made. The respondent raised no other reasons for denying reimbursement for this service. Reimbursement is recommended in the amount of **52.56.**

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 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 to dates of service 8/29/03 through 3/3/04 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 8th day of November 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

October 13, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-04-4347-01
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 for ___. ___ is 5'9" tall and weighs 179 lbs. according to the records. He was treated with passive, active, pharmacological, injections prior to his first surgery on 3/20/03 by Dr. L, MD. Dr. L performed a L5/S1 bilateral decompressive laminectomy with discectomy and foraminotomy, discectomy for PLIF, PLIF with synthes bone spacers, posterolateral fusion L5/S1 with autograph, right iliac crest bone harvest and segmental instrumentation of the spine. He was released to rehab on 7/17/03 by Dr. L. As of 9/12/03, Dr. L, states that 'his role in his (___)'s care is over...he could be released to work.' The note by Dr. L on 1/30/04 indicates that the patient was re-injured during the November 2003 FCE. On 3/9/04, hardware block injections were performed with subsequent pain relief which lasted for a few weeks. On 4/30/04, Dr. L performed a second operation which include the removal of hardware, reopen laminectomy at L5/S1 and removal of scar tissue and revision of fusion.

Records were received from the carrier, treating doctor and requestor. Records reviewed include but are not limited to the following: Daily notes from 8/29/03 through 3/4/04, initial report 4/5/02, 4/17/02 MRI, 6/13/02 neurodiagnostic report, 9/12/02 and 10/11/02 lumbar ESI reports, 11/5/02 discogram, 12/2/02 neurodiagnostic report, 1/24/04 lumbar Mri, 8/5/02 IME by Dr.F, MD, 9/9/02 peer review by Dr. T, DC, 2/10/03 notes from Dr. H, MD, 11/7/03 FCE by D, PT, 11/10/03 PPE, 9/25/03 clinical interview by M, LPC, Notes by Dr. L from 10/28/02 through 7/27/04 (14 DOS), 3/20/03 operative report, 7/17/03 release to rehab by Dr. L, 9/12/03 note by Dr. L indicating his role in care is over and the patient could be released to work, 4/30/04 2nd surgical report, PPE's from 4/23/02 through 1/9/04 (15 separate exams). The carrier sent the above records plus the following: 4/27/04 note by Dr. L, 2/28/04 Dr. B, DO, DC peer review, CCH notes, various computer notes by carrier, E1, daily notes of Dr. Li from 4/22/02 through 8/29/03, notes from ___ and various TWCC 73's.

DISPUTED SERVICES

Disputed services include physical performance tests, office visits, massage therapy, therapeutic exercises, therapeutic activities, chiropractic manipulative treatments (98940 and 98941), electrical stimulation, hot/cold packs, ultrasound, neuromuscular re-education and manual muscle testing from 8/29/03 through 3/4/04.

DECISION

The reviewer disagrees with the previous adverse determination regarding the following services: All services under dispute from 8/29/03 through 9/12/03, 98941 (11/21/03, 12/19/03, 12/22/03, 2/2/04) and 98940 (3/3/04).

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

BASIS FOR THE DECISION

The reviewer indicates that the surgeon indicates in his notes that the patient is steadily improving through 9/12/03. On this date, it is his opinion that the patient can return to work. The approved office visits and therapies are based upon the fact that the patient presented for exacerbations on multiple occasions and was treated and released. The patient would have likely improved the same with a home exercise protocol as with the in office rehabilitation after 9/12/03 (not including second surgical procedure). The documentation does not document the medical necessity of the non-approved services as per the requirements of Texas Labor Code 408.021.

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,