MDR Tracking Number: M5-05-0012-01

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 August 30, 2004.

The IRO reviewed therapeutic activities, office visits, therapeutic exercises, chiropractic manipulative treatment, report, and the functional capacity exam from 04/22/04 through 05/24/04 that was denied based upon "U".

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.

The functional capacity evaluation for date of service 05/19/04 **was** found to be medically necessary. The therapeutic activities, office visits, therapeutic exercises, report and chiropractic manipulative treatment **was not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for therapeutic activities, office visits, therapeutic exercises, chiropractic manipulative treatment, and the functional capacity exam.

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.

On September 22, 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 99080-73 for date of service 02/22/03 denied as "C". A status call was made to the requestors' representative, Sarah. MDR was informed that this date of service was paid by the insurance carrier and that no additional reimbursement is requested.

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 outlined above as follows:

- In accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;

- 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 date of service 05/19/04 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 4th day of November 2004

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division

MF/mf

Enclosure: IRO decision

October 28, 2004

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:
EMPLOYEE:
POLICY: M5-05-0012-01
CLIENT TRACKING NUMBER: M5-05-0012-01/5278

Medical Review Institute of America (MRIoA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIoA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIoA has performed an independent review of the case in question 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. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIoA for independent review.

Records Received:

Records from TWCC:

- Notification of IRO Assignment, dated 9/21/04 – 13 pages

Records from William Lawson, DC:

- Letter To Whom It May Concern from Dr. Lawson, dated 8/23/04 – 1 page
- Letter To Whom It May Concern from Dr. Lawson, dated 6/5/04 – 1 page
- History graphs – 3 pages
- Patient Rehab Notes – 5 pages
- Daily treatment notes – 14 pages
- Functional Abilities Evaluation, dated 5/19/04 – 11 pages
- Texas Workers' Compensation Work Status Report, dated 5/19/04 – 1 page

Records from AR Claims Management (including records from Dr. Lawson):

- Letter to MRIoA from Raina Sims (AR Claims Management), dated 9/27/04 – 1 page
- Independent Review Organization Summary, dated 9/27/04 – 2 pages
- CONSILIUMMD reviews, dated 5/18/04, 5/23/04, 6/6/04, 6/10/04, 6/11/04, 6/24/04, 7/12/04, 7/15/04 – 14 pages
- Employer's First Report of Injury or Illness – 1 page
- Texas Workers' Compensation Work Status Report, dated 10/22/03, 10/26/03, 11/6/03, 11/19/03, 12/3/03, 12/8/03, 12/31/03, 1/8/04, 4/2/04, 4/16/04, 4/30/04, 5/12/04, 5/19/04, 7/7/04, 7/14/04 – 15 pages
- Notification regarding maximum medical improvement and/or impairment rating – 1 page
- New Patient Examination by Charles Hinman, MD, dated 10/20/03 – 2 page
- Office visit notes from ProMed, dated 11/6/03, 11/19/03, 12/3/03, 12/8/03 – 4 pages
- Medical History Form from ProMed, dated 11/6/03 – 1 page
- Letter to Trinity Medical Solutions from Andrela Riley (CMS), dated 11/10/03 – 2 page
- HealthSouth Initial Evaluation, dated 11/12/03 – 2 pages
- HealthSouth Plan of Care, dated 11/12/03 – 2 pages
- HealthSouth Daily Notes, dated 11/19/03, 11/21/03, 11/25/03, 11/28/03, 12/1/03 – 10 pages
- HealthSouth Progress Notes, dated 12/1/03 – 2 pages
- MRI report of left knee, dated 12/4/03 – 2 pages
- Initial Report by Dr. Lawson, dated 1/8/04 – 2 pages
- Daily treatment notes by Dr. Lawson – 12 pages
- Physician review of patient's diagnostic exam by Dr. Lawson, dated 1/21/04, 2/18/04, 3/17/04, 3/30/04, 4/14/04, 4/28/04, 5/12/04, 7/7/04 – 17 pages
- Report by TREK Mobile Diagnostics, LLC, dated 1/21/04, 2/18/04, 3/17/04, 3/30/04, 4/14/04, 6/9/04 – 33 pages
- Authorization, Assignment, Consent to Treat, and Limited Power of Attorney from TREK Mobile Diagnostics, LLC signed by patient, dated 2/18/04, 6/9/04 – 4 page
- Office visit notes by Dr. Scott Spann, MD, dated 2/5/04, 3/1/04, 3/12/04, 5/10/04 – 6 pages
- SOAP notes by Dr. Lawson, dated 2/10/04 – 1 page
- Knee Evaluation by Robyn Hoffman, PT, dated 3/2/04 – 2 pages

- Operative Report by Dr. Span, dated 3/3/04 – 2 pages
- Eval, dated 3/3/04 – 1 page
- Visual Pain Rating Scale & Pain Diagram, dated 3/31/04, 6/9/04 – 3 pages
- Computerized Muscle Testing Exam, dated 3/30/04 – 4 pages
- History graphs – 9 pages
- Functional Abilities Evaluation by Dr. Lawson, dated 5/19/04, 7/14/04 – 16 pages
- Dallas Pain Questionnaire, dated 5/19/04 – 3 pages
- Advanced Physical Therapy Initial Evaluation, dated 6/2/04 – 2 pages
- Advanced Physical Therapy Discharge Summary, dated 7/13/04 – 1 page
- Capital Work Rehab & Therapy Exercise Log – 1 page
- Capital Work Rehab & Therapy Chart Notes – 6 pages
- Letters by Dr. Lawson, dated 6/29/04, 7/1/04 – 2 pages
- Impairment Rating Report by Dr. Lawson, dated 7/19/04 – 2 pages
- TWCC-69 – Report of Medical Evaluation, dated 7/19/04 – 1 page
- Letter to TWCC from Francis Flory, MD, dated 9/13/04 – 2 pages
- Supplemental Information on ___ by Dr. Flory – 7 pages
- Duplicates – 18 pages

Summary of Treatment/Case History:
This patient is a 51-year-old female sales associate for who, on ___, injured her left knee when she was carrying boxes down a ladder, missed the last two steps, and landed on her foot with all the weight. She was originally seen by a company medical doctor and received medications, and eventually, physical therapy. When her response was less than expected, an MRI was performed that revealed meniscal tear and chondromalacia. She eventually started treatment with a doctor of chiropractic who performed additional physical therapy. When this, too, was unsuccessful, she underwent arthroscopic repair, followed by post-operative physical therapy, including work conditioning.

Questions for Review:

1) Were the therapeutic activities (#97530), office visits (#99211 and #99212), therapeutic exercises (#97110), special reports (#99080), chiropractic manipulative treatment (#98940), and functional capacity evaluation (#97750-FC) medically necessary to treat this patient's injury?

Explanation of Findings:
Question 1: Were the therapeutic activities (#97530), office visits (#99211 and #99212), therapeutic exercises (#97110), special reports (#99080), chiropractic manipulative treatment (#98940), and functional capacity evaluation (#97750-FC) medically necessary to treat this patient's injury?

The reviewer mostly agrees with the carrier, as follows:

The functional capacity evaluation (#97750-FC) performed on 5/19/04 is approved; all remaining treatments and procedures are denied.

The documentation submitted in this case adequately established that the patient sustained a compensable injury to her left knee. Therefore, it was appropriate following a surgery to perform a course of post-operative physical therapy as well as a functional capacity evaluation.

However, according to CPT (Reference 1), the procedure code #98940 represents "chiropractic manipulative treatment (CMT); spinal, one to two regions." In this case, nothing in either the documentation or the diagnosis supported the rationale for the performance of this procedure on date of service 04/30/04. Furthermore, the medical records reviewed in this case lacked any explanation, justification or basis for what was reported as CPT code #99080 on date of service 04/22/04; therefore, the medical necessity for these two procedures was not supported.

Also in this case, there was no evidence to support the continued need for monitored therapy. Services that do not require "hands-on care" or supervision by a health care provider are not considered medically necessary services *even if* the services were performed by a health care provider. In fact, current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises." (Reference 2) Considering the fact that this patient had undergone weeks of supervised exercises both before and after her surgery, it is more than reasonable to assume she would have been competent to safely perform her necessary program in a home-based setting, and particularly by the dates in dispute here. Therefore, the medical necessity for continued supervised exercises and/or activities was not supported.

More importantly, however, and in terms of the treatment rendered as a whole, a careful review of the medical records revealed that the patient failed to respond to the prescribed course of therapy. Specifically, the daily SOAP notes from the treating chiropractor showed that the patient's pain rating stayed at a "6" (on a scale of 1 - 10) on all dates of service in dispute. In addition, the records showed an absence in subjective functional improvements in activities of daily living, as the patient repeatedly selected "same" and "worse" when queried regarding her activities.

In terms of measured objective functional improvement, the medical records also showed that the patient's muscle strength failed to materially improve. Specifically, over the three testing times close to the dates of service in dispute in this case (4/14/04, 4/28/04, 5/12/04 and 6/09/04), the patient's knee extension actually decreased from 17 to 22 to 18 to 13 (in pounds), and knee flexion (while the knee was both medially and laterally rotated) remained materially unchanged. Range of motion (flexion) was measured at 112 degrees at the beginning of the date range, and was still only at 108 on a follow-up measurement on 5/12/04.

And finally, the records documented that the patient remained on temporary total disability from work during the entire treatment time in question, and didn't return to restricted duty until 7/15/04. In fact, on the treating doctors final TWCC-73, he wrote that the work restrictions were "permanent."

Therefore, the treatment rendered in this case failed to meet the statutory standard (reference 3) for medical necessity in that it did not relieve the patient's pain, it did not promote her recovery, and it did not enhance her ability to return to work.

Conclusion/Partial Decision to Certify:
The functional capacity evaluation (#97550-FC) performed on 5/19/04 is approved; all remaining treatments and procedures are denied.

References Used in Support of Decision:
1: *CPT 2004: Physician's Current Procedural Terminology,* Fourth Edition, Revised. (American Medical Association, Chicago, IL 1999)
2: Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.
3: Texas Labor Code 408.021

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has given numerous presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty years.

MRIoA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIoA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIoA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIoA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIoA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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