

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 08-30-04.

Per Rule 133.308(e)(1) dates of service 04-02-03 through 08-29-03 were not timely filed and will not be a part of this review.

The IRO reviewed electrical stimulation, ultrasound, massage, office visits, chiropractic manipulation and therapeutic exercises and mechanical traction rendered from 09-03-03 through 12-19-03 that were denied based upon "U".

The IRO determined that code 99213 date of service 09-05-03, code 99213-25 dates of service 09-08-03, 09-12-03, 09-17-03, 10-01-03, code 97032 dates of service 09-03-03, 09-05-03, 09-08-03, 09-10-03, 09-12-03, 09-15-03, 0-16-03, code 99214-25 date of service 09-19-03 and code 97110 dates of service 10-08-03, 10-15-03, 10-17-03, 10-21-03, 10-22-03, 10-24-03, 11-03-03, 11-05-03, 11-07-03, 11-12-03, 11-14-03, 11-19-03, 11-26-03, 12-08-03, 12-10-03, 12-12-03 and 12-19-03 **were** medically necessary.

The IRO further determined that any and all services reviewed which were not mentioned in the above paragraph **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 09-21-04, 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.

Review of CPT code 98940 date of service 10-06-03, code 97032 dates of service 10-06-03, 10-10-03 and 10-13-03, code 97124 dates of service 10-06-03, 10-09-03, 10-10-03 and 10-13-03, code 98943 dates of service 10-09-03 and 10-13-03, code 97140 date of service 10-09-03 and code

97110 dates of service 10-09-03, 10-10-03 and 10-13-03 revealed that neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

CPT code 97545 dates of service 02-23-04, 02-25-04 and 02-26-04 denied with denial code "D" (duplicate). Per Rule 133.307(e)(2)(a) the requestor did not submit copies of medical bills to verify the services billed and to establish proper reimbursement, therefore, no reimbursement is recommended.

CPT code 97546 dates of service 02-23-04, 02-25-04 and 02-26-04 denied with denial code "D" (duplicate). Per Rule 133.307(e)(2)(a) the requestor did not submit copies of medical bills to verify the services billed and to establish proper reimbursement, therefore, no reimbursement is recommended.

CPT code 99080 dates of service 02-16-04 denied with denial code "D" (duplicate). Per Rule 133.307(e)(2)(a) the requestor did not submit copies of medical bills to verify the services billed and to establish proper reimbursement, therefore, no reimbursement is recommended.

This Findings and Decision is hereby issued this 11th day of February 2005.

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 09-03-03 through 12-19-03 in this dispute.

This Order is hereby issued this 11th day of February 2005.

Medical Necessity Team Manager
Medical Review Division
Enclosure: IRO Decision



Specialty Independent Review Organization, Inc.

October 25, 2004

Hilda Baker
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100

Austin, TX 78744

Patient:

TWCC #:

MDR Tracking #: M5-05-0018-01

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 with a specialty in Rehabilitation. 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 ___ when according to the records submitted he was hanging a piece of sheetrock in a corner when he pushed it too far in. He was required to pull it back out of the corner when he felt a sharp pain in his right shoulder. He initially presented to Robert Bell, MD and Santa Teresa Medical Center. On 3/4/04, he presented to the office of Fred Aguayo, DC. Dr. Aguayo performed passive therapies, obtained diagnostic imaging on the right elbow and shoulder and neck. The patient was put through active therapies, aquatic therapy, medical consultations, surgical intervention with Dr. Helson Pacheco-Serrant, MD (C4/5, C5/6 and C6/7 fusion was performed on 7/17/03), post surgical rehabilitation and finally a return to work program.

Documentation was submitted by the requestor/treating doctor. Documentation was requested from the respondent; however, despite a written request and multiple telephonic/verbal requests the respondent apparently did not care to send records. The records reviewed consisted of approximately four inches of paper. The documents submitted include but are not limited to the following: FCE 11/10/03, PPE 5/8/03, 3/4/03 initial report by Dr. Aguayo, Notes from Dr. Serrant (significant notes include 8/8/03 indicating four weeks of pain relieving therapies and 9/2/03 note indicating two more weeks of passive therapy and 1/6/04 note indicating ready to return to work), Notes from Dwayne Marrott, Ph. D., radiographic reports of 3/6/03, MRI reports of 3/14/03 (right shoulder, right elbow), MRI report of C spine of 3/20/03, notes from Luis Vasquez from 4/4/03 through 6/30/03, 7/17/03 operative report, return to work program notes 1/5/04 through 1/30/04, 7/18/03 radiological reports, treatment notes by Dr. Aguayo from 3/4/03 through 1/7/04, PT notes by Thomas Waugh, PT, note by Marcus Firillo, DC, notes of Doctors of Santa Teresa Medical

Center, notes from Robert Bell, MD, radiological and ECG reports of 7/8/03, blood chemistry report of 7/10/03 and note from Pedro Chavez, MD 10/24/03.

DISPUTED SERVICES

Disputed services include aquatic therapy (this service is listed on the table of services but has been marked as untimely file prior to review yet it remains on the notification of IRO assignment form), electrical stimulation, ultrasound, massage, office visits (99213 and 99214), chiropractic manipulation (98943 and 98940), therapeutic exercises and mechanical traction from 9/3/03 through 12/19/03.

DECISION

The reviewer disagrees with the previous adverse determination regarding the following dates of service and CPT codes. **99213:** (9/5/03), **99213-25:** (9/8/03,9/12/03,9/17/03, 10/1/03); **97032:** 9/3/03, 9/5/03, 9/8/03, 9/10/03, 9/12/03, 9/15/03, 9/16/03); **99214-25:** (9/19/03); **97110:** (10/08/2003, 10/15/03, 10/17/03, 10/21/03, 10/22/03, 10/24/03, 11/03/03, 11/05/03, 11/7/03, 11/12/03, 11/14/03, 11/19/03, 11/26/03, 12/08/03, 12/10/03, 12/12/03, 12/19/03).

The reviewer agrees with the previous adverse determination regarding any and all services under review which were not specifically mentioned in the above paragraph.

BASIS FOR THE DECISION

The reviewer notes that some of the paperwork for the patient was in Spanish. This reviewer speaks and reads Spanish so that no confusion is begun as to the ability to comprehend the documentation that was reviewed. The reviewer notes that traction and massage were not indicated as of this late date of treatment. The reviewer notes that manipulation of a compensable area was not medically warranted following a three level fusion of the cervical spine. Secondly, a manipulation of a shoulder is not warranted at this late date and after the finding of a rotator cuff tear via MRI.

The therapeutic exercises were approved based upon the patient's need to functionally return to a more stable and functional level after a three level cervical fusion. The approved rehabilitation was within generally accepted medical criteria and guidelines. As previously stated, it is not evident that Aquatic therapy was performed within the time period which is under review. References for this review include the following:

Medical Disability Advisor by Presley Reed, MD.

Rehabilitation for the Post-Surgical Patient: Procedures and Protocols by L. Maxey and J. Mangusson, Mosby, January 2001.

Boden, Scott. The Orthopedic Clinics of North America. Philadelphia: W.B. Saunders Company, 1998.

Kessler, R.M. Management of Common Musculoskeletal Disorders: Physical Therapy Principles and Methods. Philadelphia: J.B. Lippincott Co, 1990.

Kisner, C., and L. Colby. Therapeutic Exercise Foundations and Techniques. Philadelphia: F.A. Davis, 1990.

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,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director