

MDR Tracking Number: M5-05-0024-01

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 08-31-04. Dates of service 07-14-03, 08-20-03 and 08-28-03 per Rule 133.308(e)(1) were not timely filed and will therefore not be reviewed.

The IRO reviewed prolonged evaluation, therapeutic procedures, office visits, electrical stimulation, massage, muscle test, ROM measurements and ultrasound rendered from 09-05-03 through 06-21-04 that were denied based upon "U".

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 09-22-04, 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 99213 dates of service 09-22-03, 09-24-03 and 10-10-03 revealed neither requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor did not submit convincing evidence of carrier receipt of the submission for reconsideration. No reimbursement is recommended.

Review of CPT code 99080-73 dates of service 04-16-03, 05-21-03 and 06-28-03 revealed neither requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor did not submit convincing evidence of carrier receipt of the submission for reconsideration. No reimbursement is recommended.

CPT code 99080-73 dates of service 11-17-03, 03-03-03, 03-26-03 and 05-07-03 denied with denial code "F" (fee guideline reduction). Per Rule 133.106(f)(1) reimbursement in the amount of \$60.00 (\$15.00 per date of service) is recommended.

Review of CPT code 99455-VR date of service 11-24-03 revealed neither requestor nor respondent submitted a copy of an EOB. Per Rule 133.308(f)(2)(3) the requestor did not submit convincing evidence of carrier receipt of the submission for reconsideration. No reimbursement is recommended.

CPT code 99070-LS date of service 01-07-04 denied with denial code "N" (documentation not submitted to substantiate service). Documentation submitted by the requestor supports the service billed. Reimbursement in the amount of \$70.00 is recommended.

CPT code 97799-MR (2 units) date of service 02-05-04 denied with denial code "F" (fee guideline reduction). The requestor submitted relevant information to support delivery of service. Reimbursement is recommended in the amount of \$128.00 (\$64.00 X 2 units).

CPT code 97799-MR date of service 04-02-04 denied with denial code "N" (documentation not submitted to substantiate service). The requestor did not submit documentation for date of service for review. No reimbursement recommended.

Review of CPT code G0283 date of service 04-21-03 revealed neither requestor nor respondent submitted a copy of an EOB. Per Rule 133.308(f)(2)(3) the requestor did not submit convincing evidence of carrier receipt of the submission for reconsideration. No reimbursement is recommended.

CPT code 97750-FC (12 units) date of service 06-24-04 denied with denial code "F" (fee guideline reduction). The requestor submitted relevant information to support delivery of service. Reimbursement is per the Medicare program methodologies per Rule 134.202(c) in the amount of \$411.60 ($\$27.44 \times 125\% = \34.30×12 units). However, the requestor billed for \$400.92. Additional reimbursement in the amount of \$332.32 ($\400.92 minus payment of \$68.60 reflected on the table of disputed services) is recommended.

This Findings and Decision is hereby issued this 29th day of October 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

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 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 Decision is applicable for dates of service 09-10-03 through 06-24-04 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 29th day of October 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

October 13, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-05-0024-01
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 injured in a work related accident on ___. She was working as a cafeteria worker for ___ when she slipped and fell on some water on the floor and fell backward injuring her left elbow, left shoulder and lower back. She originally presented to the ___ for treatment of her injuries. She was later seen by Dr. S. The patient was recommended to have surgery, which was never performed. The patient subsequently changed care to Dr. C. The patient was then referred to Dr. V who recommended surgery. The patient underwent surgery to the lumbar spine on 10-27-03. The patient received follow up care and therapy from Dr. C and has undergone numerous diagnostic tests including EMG, NCV, MRI, CT, X-rays, FCE, and PPE throughout her treatment.

Documentation from both the carrier and the treating doctor were reviewed. The documentation reviewed was several inches thick and consisted of hundreds of pages.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of 99358 – prolonged evaluation, 97110 – therapeutic procedures, 99212, 99213 – office visit, 97014/G0283 – electrical stimulation, 97124 – massage, 97750-MT – muscle test, 95851 – ROM and 97035 – ultrasound from 9-5-03 through 6-21-04.

DECISION

The reviewer agrees with the previous adverse decision regarding 99358 for all dates of service reviewed. The reviewer disagrees with the previous adverse decision regarding 99212 and 99213 for all dates of service reviewed. The reviewer disagrees with the previous adverse decision regarding 97750 and 95851 for all dates of service reviewed. The reviewer states that 4 units of 97110 would be appropriate, but no more than 4 units of 97110, for each date of service reviewed. The reviewer disagrees with the previous adverse decision regarding 97124. The reviewer agrees with the previous adverse decision regarding 97014, G0283, 97035.

BASIS FOR THE DECISION

The basis for the determination is based upon the Medical Disability Advisor, Evidenced Based Medicine Guidelines, and Medicare Payment Policies. The patient underwent the appropriate phases of rehabilitation for the injury in question. Given the fact that the patient underwent an extensive surgery, appropriate rehabilitation would be clinically warranted. The use of active therapies would assist the patient in recovering from her procedure. The use of protracted passive modalities would not be warranted. The office visits would be appropriate to allow the provider to monitor and measure the progress of the patient and initiate changes in the treatment protocol if warranted.

The use of objective tests such as 97750 and 95851 would be appropriate to objectively monitor patient progress and to modify the patient's treatment regime accordingly

In regards to 99358 Prolonged Evaluation, the documentation does not support the level of exam and code billed. According to billing coding guidelines, 99358 should not be used for service less than 30 minutes in time duration. Although the treating doctor does review and report on outside services performed, the total time to review and report on an outside service would be less than 30 minutes.

In regards to the modalities administered, the documentation does not support the need for continued passive modalities for the duration utilized after the date of injury. Although the patient did have surgery some time after the original date of injury, the application of passive modalities without documenting the specific need for the modalities would not be warranted.

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,