

MDR Tracking Number: M5-05-0027-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 8-27-04.

Dates of service 9-17-03, 9-19-03 and 9-22-03 were withdrawn by the requester on 10-11-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the therapeutic procedures, therapeutic activities and office visits from 10-29-03 through 11-17-03 were not medically necessary.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service 10-29-03 through 11-17-03 are denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 14th day of October, 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

October 5, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-05-0027-01
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

This patient is a 27-year-old female cashier for ___ who, on ___, injured her lower back when she lifted a 12-pack of Coke, then bent forward to push it onto the bottom rack of a shopping cart. She immediately felt a sudden sharp pain in her lower back and was unable to stand upright. She was seen immediately at the local emergency room, and 2 days later, initiated treatment with a doctor of chiropractic. She subsequently received conservative chiropractic care and physical therapy over several months. Because her response was limited, she eventually tried oral medications and epidural steroid injections, also with less than favorable results. She eventually underwent spinal surgery on 08/26/03, followed by post-operative physical therapy and chiropractic.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of 97110 – therapeutic procedures, 97530 – therapeutic activities and 99213 – office visit from 10-29-2003 through 11-17-2003.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

First, the disputed treatment began a full 8 weeks after the surgical procedure was performed, and the records revealed that the patient had already undergone 4 weeks of supervised, post-operative care by that time. After this amount of time, particularly considering that the patient

had received months of pre-surgical therapy, the patient could have been transitioned into a home-based exercise program in lieu of continued supervised therapy. In fact, the current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises."¹ Because there was no specific mention in the medical records of any extenuating circumstances regarding the necessity for continued supervised therapeutic exercises in this case, the medical necessity for it was not supported.

In addition, the medical records submitted indicated that the patient's pain levels remained unchanged during the entire date range in dispute, specifically a "6 out of a possible 10," where a "10" represented intolerable pain. Further, no mention was made whatsoever of spinal ranges of motion in the records submitted, rendering its monitoring unavailable. And finally, a review of the TWCC-73s that were submitted on this patient revealed that the patient continued on temporary total disability through this time frame. Therefore, since the care provided did not relieve the patient's symptoms, did not promote recovery and did not enhance the patient's ability to return to work, the care did not meet the statutory requirements² for medical necessity.

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,

¹ 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.

² Texas Labor Code 408.021