

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-4091.M5**

MDR Tracking Number: M5-05-0094-01

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 09/02/04.

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 CPT Codes 97140, 97530, 97113, 97112, and 99214 for dates of service 08/20/03 through 09/29/03 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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 30, 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 19 days of the requestor's receipt of the Notice.

- CPT Code 99204 for date of service 08/01/03. Neither party submitted an EOB. The requestor did not submit a HCFA-1500; therefore, per Rule 133.307(e)(2)(A) reimbursement is not recommended.
- CPT Code 97140 (2 units/dos) for dates of service 08/04/03, 08/06/03, 08/08/03, and 08/11/03 denied as "D, 60 – The provider has billed for the exact services on a previous bill." The respondent did not submit convincing evidence that CPT Code 97140 was a duplicate billing; therefore, per Rule 134.202(b) reimbursement in the amount of \$247.20 (61.80 x 4) is recommended.
- CPT Code 97140 for date of service 08/14/03 (2 units). EOBs were not submitted by either party; therefore, this service will be reviewed in accordance with the applicable Medicare Fee Schedule. Per Rule 134.202(b) reimbursement in the amount of \$61.80 (amount in dispute) is recommended.
- CPT Code 97113 (13 units total) for dates of service 08/14/03 (3 units), 08/18/03 (3 units), 08/25/03 (3 units), and 08/27/03 (4 units) denied as "F, Z8, N6 – Z8 -A procedure has been billed on the same date, and on the same site, as a more extensive procedure. Since the extensive procedure has an increased level of complexity, and N-6 – One hydrotherapy

- modality is coverable each day for the sole.” The respondent has not listed which procedure is a more extensive procedure; it is also unclear what is meant by “one hydrotherapy modality is coverable each day for the sole”; therefore, per Rule 133.304(c) reimbursement in the amount of \$439.08 ( $\$29.27 \times 125\% = \$36.59 \times 13 = \$475.67$ ) is recommended.

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 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 as follows:

- in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c)(6)
- 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 08/04/03 through 08/27/03 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 Order is hereby issued this 7<sup>th</sup> day of January 2005.

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division

MF/mf

Enclosure: IRO Decision



Specialty Independent Review Organization, Inc.

## Amended Report

November 5, 2004

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

Patient:  
TWCC #:  
MDR Tracking #: M5-05-0094-01  
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

According to the records received, \_\_\_ has undergone three low back surgeries. He had a surgery in L5 microdiscectomy in 1985, L5 laminectomy in 2000, and a 360-degree fusion in 2002. The patient also underwent core decompression to his right hip in 2003. The patient was referred to Trinity Phy-Med for rehabilitation and aquatic therapy. Trinity Phy-Med under Dr. Love began rehabilitative measures.

### DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of manual therapy, therapeutic activities, aquatic therapy, neuromuscular re-education and office visit (CPT code 97140, 97530, 97113, 97112, 99214) from 8-20-2003 through 9-29-2003.

## DECISION

The reviewer agrees with the previous adverse determination.

### BASIS FOR THE DECISION

The reviewer states that the decision is based upon the Medical Disability Advisor, Evidenced Based Medical Guidelines, and Medicare Policies. The EOB's from the Insurance Carrier show an injury date of 6-9-2000. The records from the requestor show an injury date of 6-9-2002. The records do not adequately document the necessity for initiation of rehabilitative services after such a protracted time from the date of injury / date of surgery or for which exact surgery or procedure the rehabilitative services were performed to address. The surgery dates range from 1985 to 2003. There is insufficient documentation regarding this patient's case to justify the procedures performed. In addition, according to the records, the patient was referred for aquatic therapy by the surgeon; thus any additional therapies would not be clinically appropriate.

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