

MDR Tracking Number: M5-05-0123-01

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 9-7-04

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the 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.

The office visits, unlisted therapeutic process, mechanical traction chiropractic manipulative treatment, and vasopneumatic devices from 9-25-03 through 5-21-04, 4 units of therapeutic exercise from 9-25-03 through 4-16-04, 4 units of therapeutic activities on 4-14-04, the cardiovascular procedure, ROM Measurements, muscle testing and FCE on 4-19-04 were found to be medically necessary. The neuromuscular stimulator, office visits, radiologic exam, electrical stimulation, group therapy procedures, therapeutic activities, more than four units of therapeutic exercises, and more than 4 units of therapeutic activities from 9-25-03 through 4-16-04 were not medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute 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 11-2-04 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.

The carrier denied CPT Code 99080-73 for dates of service 10-8-03, 10-21-03, 11-24-03, 1-13-04, 3-8-04, 4-9-04 and 4-12-04 with a V for unnecessary medical treatment based on a peer review, however, the TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter and, therefore, recommends reimbursement. **Per Rule 129.5 recommend reimbursement of CPT Code 99080-73 for \$105.00. (\$15.00 x 7)**

This Finding and Decision is hereby issued this 10th day of December, 2004.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees 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 dates of service 9-26-03 through 5-21-04 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 10th day of December, 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

10/28/2004

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

Patient:
TWCC #:
MDR Tracking #: M5-05-0123-01
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 received, the injured employee ___ was injured in a work related accident on ___. The injured employee was working as a custodian for ___ when he injured his low back. The injured employee was lifting heavy buckets of water trashcans full of wet ceiling tile and throwing them in a dumpster when he injured his low back. The patient originally was treated by Dr. P who administered physical therapies and modalities. The patient was also seen by Dr. N who initiated a work hardening program. The patient subsequently sought care with ___ on September 25, 2003. The patient was continuing to complain of pain in the low back with pain radiating down the left leg. The patient was referred to Dr. V for an orthopedic consult. The patient saw a designated doctor on December 8, 2003 stating that the patient was not at MMI. The patient also initiated lumbar injections in December. A discogram was performed to the lumbar spine in December 2003. The patient initiated post injection rehabilitation on March 17, 2004 for his work related injury. The patient's treating doctor is Dr. S for the purpose of this review. The patient also had on MRI to the lumbar spine on June 5, 2003 showing posterior bulging of the L5 annulus.

Medical Dispute Records, EOB's from the Insurance Carrier, Medical necessity letter from Dr. W, Designated Doctor report from Dr. B, FCE by Dr. W, Notes from Dr. Wi, Notes from Dr. V , Notes from Dr. L , Open Air MRI to the Lumbar spine, Notes from Dr. Lu , Neurodiagnostics from ___ notes from ___, Peer review by Dr. P and Multiple TWCC 73's.

DISPUTED SERVICES

The services in dispute are: Office Visits, Radiology Exams, Special Reports, E-Stim, therapeutic Procedures and modalities.

Dates of service under review are from 9-25-2003 through 5-21-2004.

DECISION

The reviewer disagrees with the previous adverse decision regarding 99211, 99212, 99213, 97139, 97012, 98940, 98941, and 97016 for all dates of service under review.

The reviewer agrees with the previous adverse decision regarding E0745NU, 99204, 99214, 72100, 97032, 97150, 97530 for dates of service 9-25-2003 through 4-12-2004 and 4-16-2004.

The reviewer states that up to 4 units of 97110 would be appropriate and medically necessary for dates of service 9-25-2003 through 4-12-2004 and 4-16-2004. No more than 4 units would be appropriate or medically necessary.

The reviewer states that 4 units of 97530 would be appropriate and medically necessary for date of service 4-14-2004. No more than 4 units would be appropriate or medically necessary.

The reviewer agrees with the previous adverse decision regarding 97150 on 4-14-2004.

The reviewer disagrees with the previous adverse decision regarding 93799, 95851, 95831, and 97750 for date of service 4-19-2004.

BASIS FOR THE DECISION

The basis for the determination is based upon the Medical Disability Advisor, Evidenced Based Medical Guidelines, and Medicare Policies. Therapeutic exercises, joint mobilization, and manual traction, and physical modalities are considered an appropriate treatment measure for individuals with low back pain according to the MDA. The office visits meet the standard of TLC 408.021 in that the patient does show improvement with treatment. The MDA identifies that most patients recover from a disc injury within 6 months in a non-complicated case. Considering all the factors and the patient's age, the treatment falls within the expected time period for a disc injury. It should be noted that the duration of treatment is longer than expected but the treatment frequency within that time period is reasonable. Also considering the fact that the patient did undergo invasive procedures during this time period, consisting of ESI's, the time frame of the treatment is reasonable.

The documentation does not support the level examination of a 99204 or a 99214 according to the Medicare payment policies and procedures. The provider should review the necessary

components according to CMS for a level 4 examination. There is no documentation or report regarding 72100.

The documentation does not support the need for 97032 in that there is no documentation to support constant attendance of a modality over a supervised modality.

In regards to therapeutic procedures, no more than 4 units would be appropriate for the patient on any given date of service. The provider utilized various codes to include 97110, 97530, and 97150 but only 4 units or one hour of therapeutic procedures would be medically necessary.

The documentation does not support the necessity of an EMS unit. There is not adequate documentation as to the type of unit being used or the application or use of the unit on the patient to necessitate purchase of a unit without a clinical trial using the unit on the patient to establish clinical efficacy. In addition, literature shows that the use of a home unit does not show a long-term gain or benefit.

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,