

MDR Tracking Number: M5-05-0360-01

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 09-27-04.

In accordance with Rule 133.308 (e)(1), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the dates of service in dispute. The Commission received the medical dispute resolution request on 9/27/04, therefore the following dates of service are not timely: 9/17/03-9/26/03.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The IRO has determined that the chiropractic manipulative treatments-extraspinal, office visits, and muscle testing rendered from 9/29/03 through 5/05/04 **were** medically necessary. The range of motion testing, ultrasound, massage, chiropractic manipulative treatments (spinal regions), electrical stimulation, diathermy, neuromuscular re-education, and therapeutic activities rendered from 9/29/04 through 5/14/04 **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 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 November 3, 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 14 days of the requestor's receipt of the Notice.

**CPT code 99080-73** for date of service 10/13/03: The carrier denied CPT Code 99080-73 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. Review of the reconsideration HCFA and certified mail reflected proof of

submission. The Medical Review Division has jurisdiction in this matter and **reimbursement is recommended** in the amount of \$15.

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 with Medicare program reimbursement methodologies per Commission Rule 134.202 (b) 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 9/29/03 through 5/05/04 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 Decision and Order is hereby issued this 18<sup>th</sup> day of January 2005.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division

RLC/rlc

Enclosure: IRO Decision

November 22, 2004  
December 2, 2004  
December 16, 2004  
January 13, 2005

Rosalinda Lopez  
Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

**REVISED REPORT**  
**Corrected items in dispute.**

Re: Medical Dispute Resolution  
MDR #: M5-05-0360-01  
TWCC#:  
Injured Employee:  
DOI:  
SS#:  
IRO Certificate No.: IRO 5055

Dear Ms. Lopez:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic and is currently on the TWCC Approved Doctor List.

### **REVIEWER'S REPORT**

#### **Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's

#### Information provided by Requestor:

- Office notes 03/13/03 – 04/06/04
- Daily progress notes 02/18/04 – 05/14/04
- Physical therapy notes 09/17/03 – 02/10/04
- Psychotherapy notes 11/18/03 – 03/18/04
- FCE's 11/05/03 – 01/14/04
- Nerve conduction study 02/28/03

#### Information provided by Respondent:

- Designated chiropractor exams

#### Information provided by Orthopedic Surgeon:

- Office visit 01/14/04

#### Information provided by Psychiatrist:

- Office visit 02/04/04

#### Information provided by Neurologist:

- Office visits 04/17/03 – 06/16/03
- Operative reports 05/01/03 – 05/30/03

#### **Clinical History:**

The patient is a 49-year-old male who, on \_\_\_\_, reported a marked increase in his bilateral wrist and hand pain from repetitive motion on the job. He was seen initially by the company doctors, but eventually presented himself to a doctor of chiropractic who initiated physical therapy and manipulation. Despite this conservative trial, he eventually underwent right and left carpal tunnel release in the spring of 2003. Following these surgical procedures, he received additional chiropractic treatment including physical therapy/rehabilitation and a work hardening program.

**Disputed Services:**

Range of motion testing, ultrasound, massage, chiropractic manipulative treatment-spinal 3-4 regions, electrical stimulation-unattended, diathermy, office visits, chiropractic manipulative treatment-extra spinal 1 or more regions, neuromuscular re-education, and therapeutic activities during the period of 09/29/03 thru 05/14/04.

**Decision:**

The reviewer partially disagrees with the determination of the insurance carrier as follows:

## Medically necessary:

- 98943 chiropractic manipulative treatments-extra spinal
- 99213 office visits
- 95831 muscle testing

## Not medically necessary

- 97110 range of motion testing
- 97035 ultrasound
- 97124 massage
- 98941 chiropractic manipulative treatment, spinal 3-4 regions
- 98940 chiropractic manipulative treatment, spinal 1-2 regions
- G0283 electrical stimulation-unattended
- 97024 diathermy
- 97112 neuromuscular re-education
- 97530 therapeutic activities

**Rationale:**

First of all, the medical records submitted adequately documented that a compensable injury to both wrists had occurred, and that the patient underwent bilateral carpal tunnel release surgeries. As a result, extra spinal chiropractic manipulative therapy (98943), follow-up evaluation and management services (99213), muscle testing (95831) and physical performance testing (97750) post-operatively were all medically necessary and supported.

However, neither the documentation nor the diagnosis in this case supported the medical necessity of either 1-2 spinal region chiropractic manipulative therapy or 3-4 spinal region chiropractic manipulative therapy. Therefore, both these procedures were not medically necessary.

In addition, there was no evidence to support the need for continued monitored therapeutic activities. Services that do not require "hands-on care" or supervision of a health care provider are not considered medically necessary services *even if* the services were performed by a health care provider. Continuation of an unchanging treatment plan, performance of activities that could be performed as a home exercise program, and/or modalities that provide the same effects as those that can be self applied are not indicated. Any gains obtained in this time period would likely have been achieved through performance of a home program. In fact, current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as

compared to home exercises.”<sup>1</sup> Since this patient had been exposed to several months of supervised therapeutic procedures (97110/97530) by the time these dates in dispute commenced, the records failed to document the medical rationale why it was medically necessary for this patient to have continue supervision.

It is the position of the Texas Chiropractic Association<sup>2</sup> that it is beneficial to proceed to the rehabilitation phase (if warranted) as rapidly as possible, and to minimize dependency upon passive forms of treatment/care, since studies have shown a clear relationship between prolonged restricted activity and the risk of failure in returning to pre-injury status. The TCA Guidelines also state that repeated use of acute care measures alone generally fosters chronicity, physician dependence and over-utilization and the repeated use of passive treatment/care tends to promote physician dependence and chronicity. Therefore, absent a documented flare-up, the ultrasound (97035), diathermy (97024), and unattended electrical stimulation (G0283) were not medically necessary.

With regard to the neuromuscular reeducation services (97112), there was nothing in either the diagnosis or the physical examination findings on this patient that demonstrated the type of neuropathology that would necessitate the application of this service. According to a Medicare Medical Policy Bulletin<sup>3</sup>, “This therapeutic procedure is provided to improve balance, coordination, kinesthetic sense, posture, motor skill, and proprioception. Neuromuscular reeducation may be reasonable and necessary for impairments which affect the body’s neuromuscular system (e.g., poor static or dynamic sitting/standing balance, loss of gross and fine motor coordination, hypo/hypertonicity). The documentation in the medical records must clearly identify the need for these treatments.” In this case, the documentation failed to fulfill these requirements, rendering the performance of this service medically unnecessary.

Sincerely,

Gilbert Prud’homme  
Secretary & General Counsel

GP:thh

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<sup>1</sup> 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.

<sup>2</sup> Quality Assurance Guidelines, Texas Chiropractic Association.

<sup>3</sup> HGSA Medicare Medical Policy Bulletin, Physical Therapy Rehabilitation Services, original policy effective date 04/01/1993 (Y-1B)