

MDR Tracking Number: M5-05-0459-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 disputed dates of service 10-1-03 and 10-3-03 are untimely and ineligible for review per TWCC Rule 133.308 (e)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the date of service in dispute. This dispute was received on 10-5-04.

The IRO reviewed office visits, manual therapy, therapeutic procedures, mechanical traction, electrical stimulation and ultrasound on 11-3-03 to 5-25-04.

The Medical Review Division has reviewed the IRO Decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. The IRO deemed that four units of therapeutic exercises were medically necessary from 11-3-03 to 12-22-03 and office visits 99212 from 11-3-03 to 12-30-03 and 5-24-04 and 5-25-04 and office visit 99214 on 11-14-03 and 5-21-04 were also medically necessary. The IRO agreed with the previous adverse determination for all other disputed services. Consequently, the requestor is not owed a refund of the paid IRO fee.

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

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.

Requestor submitted an updated table to reflect payment received for code 99212 rendered in December 2003.

The above Findings and Decision is hereby issued this 11th day of February 2005.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

ORDER

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 outlined above as follows:

- In accordance with Medicare program reimbursement methodologies for dates of service on or 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 11-3-03 through 5-25-04 as outlined above.

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 11th day of February 2005.

Margaret Q. Ojeda, Manager
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO Decision



Specialty Independent Review Organization, Inc.

Amended Report January 25, 2005

November 23, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-05-0459-01
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 with a specialty in Rehabilitation. 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

___ was injured on ___ while lifting a heavy copier when another coworker dropped his end of the copier. She has been treated by John Randolph, DC with passive therapies, active therapies, ESI's, FCE's, MRI's etc. She received an FCE on 10/24/03 and was reported to have a light PDL while she tested at a sedentary light PDL. The 12/23/03 FCE indicated she was required to be at a medium PDL and tested at a light PDL. It is unclear as to which PDL is the actual PDL. The patient was seen by Dr. Berliner and Dr. Shanti for medical management. Multiple ESI's were performed during treatment and the patient was placed at MMI on 1/12/04 by the designated doctor.

Records were received from the requestor and from the respondent. Records reviewed include but are not limited to the following: From the requestor: 11/11/04 letter from Real Healthcare, 9/24/03 imaging report, progress report 10/10/03 (interestingly the date of visit indicates 9/19/03 on this note), 10/24/03 FCE, 10/28/03 notes from Dr. Berliner, progress report of 11/14/03, SOAP notes from 10/1/03 through 5/25/03, exercise log sheets from 11/3/03 through 1/30/04, progress report of 12/15/03, 12/23/03 FCE, progress report 2/11/03. From the respondent: many of the same above-mentioned records, DD exam indicating Stat MMI on 1/12/04, 2/4/04 peer review by Steven Tomko, DC, neurodiagnostic testing 10/30/03, notes from Shanti Pain and Wellness Clinic, notes by Christopher Rogers, PT and multiple precert requests and decisions.

DISPUTED SERVICES

Disputed services include the following: office visit (99212), 97140 manual therapy, 97110 therapeutic exercise, 99214 office visit, 97012 mechanical traction, 97032 electrical stimulation (attended) and ultrasound 97035 as denied by the respondent via 'v' codes. The dates of service range from 11/3/03 through 5/25/04.

DECISION

The reviewer disagrees with the previous adverse determination regarding: four units of 97110 from 11/3/03 through 12/22/03, all 99212 office visits from 11/3/03 through 12/30/03 and 5/24/04 through 5/25/04, 99214 (11/14/03, 5/21/04).

The reviewer agrees with the previous adverse determination regarding all remaining services under dispute.

BASIS FOR THE DECISION

The reviewer indicates that the above decisions are based upon TLC 408.021, ACOEM Guidelines, Council on Chiropractic Physiologic Therapeutics and Rehabilitation Guidelines and Evidence Based Medicine Guidelines. Specifically, the above-approved services were found to be medically necessary as they were documented to relieve the effects of a work related injury. The patient improved to the light PDL as of 12/23/03; therefore, she could have returned to work at this point. The patient's pain scale was at a 1/10 on 12/30/03. She was placed at MMI on 1/12/04 by the designated doctor. She is entitled to future medical benefits as were provided due to the exacerbation in May of 2004. Passive therapies were found to not be of medical necessity at any point during the review due to the phase of care in which they were performed.

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