

**TEXAS WORKERS' COMPENSATION COMMISSION
MEDICAL REVIEW DIVISION, MS-48
MEDICAL DISPUTE RESOLUTION
FINDINGS AND DECISION**

MDR Tracking Number: M5-05-0462-01

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. This dispute was received on 10-5-04.

The IRO reviewed office visits, mechanical traction, electrical stimulation, ultrasound, manual therapy, therapeutic exercises, hot/cold packs, and chiropractic manipulation on 2-13-04 to 4-21-04.

The Medical Review Division has reviewed the IRO decision and determined that the **Requestor prevailed** on the majority of the medical necessity issues. The IRO agreed with the previous adverse determination that the electrical stimulation, mechanical traction, and ultrasound therapy beyond 3-10-04; and all units above two units of therapeutic exercises between 3-12-04 and 4-21-04; and office visits on 2-16-04, 2-18-04, 2-23-04, 3-1-04, 3-3-04, 3-10-04, 3-12-04, 3-17-04, 3-18-04, 3-19-04, 3-24-04, 3-26-04, 3-29-04, 3-31-04, 4-2-04, 4-7-04, 4-12-04, and 4-14-04 were not medically necessary.

The IRO deemed the office visits on 2-13-04, 2-25-04, 3-8-04, 3-22-04, 4-5-04, and 4-19-04 and all other services between 2-13-04 and 3-10-04 and manual therapy technique, chiropractic manipulative treatment, and a maximum of two units of therapeutic exercises between 3-12-04 and 4-21-04 were medically necessary. 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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. On 11-19-04, 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.

Code 97035 billed on date of service 4-9-04 had no EOB submitted by either party.

- Per Rule 133.307(e)(2)(B), the requestor did not submit convincing evidence of carrier receipt of request for EOB. Per Rule 133.307(e)(3)(B), the carrier did not submit the

missing EOB as required. Therefore, no review can be conducted and no reimbursement can be recommended.

Code 97260 billed for date of service 4-21-04 had no EOB submitted by either party.

- Rule 134.202 (b) states, “For coding, billing, reporting, and reimbursement of professional medical services, Texas Workers’ Compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additional or exceptions in this section.” Per Ingenix EncoderPro, this is an invalid code; therefore, it will not be reviewed.

The above Findings and Decision is hereby issued this 28th day of January 2005.

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 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 2-13-04 through 4-21-04 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 28th day of January 2005.

Supervisor
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO Decision

MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M5-05-0462-01
Name of Patient:	
Name of URA/Payer:	Galaxy Health Care Centers
Name of Provider: (ER, Hospital, or Other Facility)	Galaxy Health Care Centers
Name of Physician: (Treating or Requesting)	Alex Riley, DC

December 20, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Texas Workers Compensation Commission

CLINICAL HISTORY

Available documentation received and included for review consists of treatment records from multiple providers dating from February 2004. Office visit notes from Dr. Alex Riley (DC) for the dates in dispute are also reviewed, along with records from Drs Silva (MD), Ross (MD), Rivera (MD), Fox (MD). MRI reports: Cervical spine; electrodiagnostics right upper extremity.

Mr. ____ a 42-year-old male, was injured on ____ while working at ____ . He was moving a base cabinet when he felt a stabbing pain to his neck. He continued at work for a while, then pushed a board and heard a 'pop' in his neck, with subsequent lateralization into his right arm. He presented to Dr. Riley, who assessed him with a cervical disc syndrome with radicular component, cervical myofasciitis and pain in right shoulder. He placed the patient on a comprehensive, conservative treatment régime consisting of spinal manipulation with adjunctive physiotherapeutic modalities, progressing to include exercises after about four to six weeks. The patient was apparently referred to an orthopedic surgeon, Dr. Fogal, who requested a MRI. This was performed on 1/29/04 and revealed a small spur, with subtle posterocentral bulged disc at C3/C4 and C4/C5, and a right paracentral posteriorly protruded disc over the osteophytosis at the C5/C6 and C6/C7 region. Dr. Fogal's impression was of cervical disc herniation with right C7 radiculopathy. The patient was sent for a pain management assessment to Dr. Shanti, and started on Darvocet. The patient was then seen by a neurologist, Marco Silva, M.D. on 3/23/04 who noted about a 40% improvement according to the patient. His impression was cervicgia and he recommended continued therapy along with medication.

The patient was seen for designated doctor purposes by Dr. Foux, 5/4/04. He felt the patient was at MMI with a 6% impairment comprised of 5% DRE II category for the cervical spine along with 1% motion loss attributable to the right shoulder.

REQUESTED SERVICE(S)

Medical necessity of office visits (99212, 99213), mechanical traction (97012) ultrasound (97035) electrical stimulation (97032), manual

therapy (97140), therapeutic exercises (97110), hot/cold packs 97010, chiropractic manipulation (98940) for dates of service 02/13/04 – 4/21/04.

DECISION

Approve office visits for dates of service only on 2/12/04, 2/25/04, 3/8/04, 3/22/04, 4/05/04 and 4/19/04,

Approve all other disputed services between 2/13/04 and 3/10/04.

Beyond 3/10/04, deny electrical stimulation (97032), traction (97012) and ultrasound (97035).

Approve myofascial release (97140), manipulation (98940) and a maximum of two units of exercises (97110) per encounter date for the service dates between 3/12/01-4/21/04.

RATIONALE/BASIS FOR DECISION

The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

This patient sustained sprain/strain injuries to the cervical spine, which most likely extended to involve a discogenic component with radicular complaints, along with possibly some injury to right shoulder joint.

The severity of these injuries place this patient outside of the "normal" expected parameters of 6-8 weeks recovery time. First level interventions were somewhat successful in reducing symptoms; appropriate referral for opinion regarding next level/stage of more aggressive interventions was also made. At least initially, these seem to confirm that lower stage care was appropriate without the requirement for more aggressive measures.

Apparently the patient was seen for 13 visits of "passive therapy" between January 15 and February 25th 2004, with the addition of some active interventions through 4/21/04, for a total of 35 visits.

Unfortunately, there appears to be no rationale offered, with little obvious benefit obtained from the continuing global battery of passive modalities beyond the first 4-6 weeks of care. A transition to a more active régime of care is appropriate and within most accepted clinical guidelines, and indeed securing this transition

phase sometimes requires continuation of passive modalities for palliative purposes. However it is unusual to suggest that these are required much beyond the first week or so of a transition into a more active régime. As such, there is no justification for continuing to modalities of ultrasound, interferential beyond 3/10/04.

Unfortunately, the documentation in this case is somewhat suboptimal, with very few outcome measures documented, aside from subjective pain level recordings. There is very little information on exactly what type of therapeutic activities were performed, any progression or the effects of interventions. As such, it is hard to justify any more than two units per encounter date as being medically necessary.

With respect to the E/M office visits, the patient was essentially treated on a focused rehabilitation program. There was no apparent requirement for ongoing E/M services to be provided outside of the exceptions noted above, and the documentation certainly does not support level of service billed for these dates.

In summary, treatment interventions implemented were within accepted clinical parameters with the exceptions noted above. Positive effects regarding this treatment were documented in the record.

The above analysis is based solely upon the medical records/tests submitted. It is assumed that the material provided is correct and complete in nature. If more information becomes available at a later date, an additional report may be requested. Such and may or may not change the opinions rendered in this evaluation.

Opinions are based upon a reasonable degree of medical/chiropractic probability and are totally independent of the requesting client.

References:

Hansen DT: Topics in Clinical Chiropractic, 1994, volume one, No. 4, December 1994, pp. 1-8 with the article "Back to Basics: Determining how much care to give and reporting patient progress".

Haldeman S., Chapman-Smith D, Peterson DM., eds. Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen: Giathersburg, MD, 1993;

Souza T: Differential Diagnosis for a Chiropractor: Protocols and Algorithms, 1997; chapter 1, pp. 3-25.

Liebenson C. Commentary: Rehabilitation and chiropractic practice. JMPT 1996; 19(2):134140