

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

MDR Tracking Number: M5-04-0584-01

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 10-20-04.

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

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. Office visit (CPT code 99213) on 2-23-04, electrical stimulation, manual therapy, therapeutic exercises, DME E1399, neuromuscular re-education, and required report were **found** to be medically necessary. The office visits (CPT code 99212), office visits (CPT code 99214) on 2-11-04, 3-15-04, and 4-26-04, and DME (E1399) **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

This Findings and Decision is hereby issued this _____ day of January, 2005.

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 from 2-2-04 through 4-26-04 as outlined above in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c) and 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 hereby issued this _____ day of January, 2005.

Supervisor
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO decision

MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive Austin, Texas 78738
Phone: 512-402-1400 FAX: 512-402-1012

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISION III – 1/20/05

TWCC Case Number:	
MDR Tracking Number:	M5-05-0584-01
Name of Patient:	
Name of URA/Payer:	Bose Consulting, Inc.
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician:	Williams H. Hicks, DC
(Treating or Requesting)	

December 15, 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 fairly extensive treatment records from multiple providers dating back to October 2003. Office visit notes from Dr. William Hicks (DC) for the dates in dispute are also reviewed, along with records from Drs Fults (MD), Fogel (MD), McKay (MD), McShane (DO). MRI reports: lumbar spine and left shoulder.

Mr. _____, a 52-year-old male, was involved in a motor vehicle accident on 10/___/03, whereby he was rear-ended by another vehicle. He was triaged at a local hospital then released with instructions to follow up for further care. He then presented to Dr. Hicks (DC) on 10/27/03, complaining of lower back pain with radiation into both lower extremities, along with neck and left shoulder pain. Dr. Hicks's impression was of cervical, lumbar and left shoulder sprain/strain injuries. A comprehensive conservative treatment régime was instituted consisting of myofascial release, electrical stimulation, therapeutic exercises and neuromuscular reeducation, supervised by a physical therapist. Office visits were billed for every encounter.

He was referred for orthopedic consult to Kenneth Fults, D.O. on 11/12/03 who felt he had a probable cervical sprain/strain with left shoulder impingement syndrome and left lumbar facet mediated pain and left acute sacroiliitis, rule out herniated disc. Recommendations was for medication including Vicodin Soma, Naprosyn, and continuation of treatment plan with Dr. Hicks. MRI of lumbar spine was obtained on 11/24/03, revealing a 5 mm central disc herniation compressing the thecal sac and touching the nerve roots bilaterally without canal stenosis. MRI of the left shoulder 12/8/03 showed severe tenosynovitis of the rotator cuff along with a partial tear of the supraspinatus musculotendinous junction, with subcoracoid bursitis. The patient was sent to Guy Fogal, M.D. on 1/8/04, who diagnosed left shoulder post-traumatic acromioclavicular joint arthritis, left shoulder partial thickness rotator cuff tear and L5/S1 lumbar disc herniation. Recommendations were to continue physical therapy for six weeks, continue anti-inflammatory medications. No improvement was noted by 2/19/04 and a cortisone injection was administered into the left subacromial bursa and intra-articular joint. The patient was next seen

for a pain management consult by Andrew McKay, M.D. on 2/19/04. Pain level was 6-7/10. His impression was lumbar disc herniation and left shoulder rotator cuff, partial tear. He administered a lumbar ESI to the L5/S1 level on 3/24/04. There was some improvement with this injection noted two days later, with a visual analog score of 5/10 with spikes to 7/10. 60% improvement was reported on 4/19/04 with reduced radicular complaints and improved left shoulder range of motion. A second ESI was performed on 5/6/04.

He was then seen for designated doctor purposes on 4/29/04 by Dr. McShane, who felt he was at MMI with a 2% whole person impairment comprised of range of motion loss to the left shoulder.

REQUESTED SERVICE(S)

Medical necessity of office visits (99212, 99213, 99214), electrical stimulation (97032), manual therapy (97140), therapeutic exercises, (97110), DME E1399, Neuro-muscular re-education (97112), and Req. Report (99080) for dates of service 02/02/04 – 4/26/04.

DECISION

Deny daily office visits (99212).

Deny level 4 office visit (99214) level of service on 2/11/04, 3/15/04, and 4/26/04.

Approve level 3 (99213) office visit on 2/23/04.

Deny DME (E1399), as no supporting documentation is supplied.

Approve all other disputed services.

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, lumbar spine and left shoulder, with discogenic involvement to lumbar spine and a partial tear to the left rotator cuff. The severity of these injuries place this patient outside of the "normal" expected parameters of 6-8 weeks recovery time. First level interventions were only reasonably successful in reducing symptoms, appropriate

referral for next level/stage of more aggressive interventions was then made. These were successful, in combination with additional ongoing physical therapy care, in achieving a reduced symptomatic picture along with an increased functional capacity, ultimately resulting in a successful return to full work.

With respect to the E/M office visits, the patient was essentially treated on a focused rehabilitation / strengthening program. There was no apparent requirement for ongoing daily 99212 E/M services to be provided, above and beyond those that were billed on 2/11/04, 2/23/04, 3/15/04, and 4/26/04.

Regarding these dates, however, the case makeup and the documentation do not establish the necessity of a 99214 level of complexity. The detailed history and exam levels appear to be simple updates to that reported in the initial report, the low medical decision and management level required for this particular case do not qualify as a moderately complex MDM required by 99214. At most, the level of service on the above dates is best described by 99213 (expanded history and exam, with low complexity level medical decision and management level). As currently billed, the dates of service 2/11/04, 3/15/04, and 4/26/04 are not supported.

In summary, appropriate treatment interventions were implemented, with positive effects documented in the record. As such the care rendered satisfied the above standard of medical necessity.

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