MDR Tracking Number: M5-05-0704-01

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 10-29-04.

The IRO reviewed therapeutic exercises, ultrasound, paraffin bath, electrical stimulation unattended, physical performance test (97750-MT), manual therapy technique, office visits, surgical supply rendered from 01-02-04 through 05-25-04 that were denied based upon "U" and "V".

The IRO determined that all services and procedures (except chiropractic manipulation 98940) up to and including date of service 01-19-04 and office visits (99214 and 99213) after date of service 01-19-04 **were** medically necessary. The IRO determined that all remaining services and procedures including all chiropractic spinal manipulations after date of service 01-19-04 **were not** medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. 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.

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 11-30-04, 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.

CPT code 97140 dates of service 12-16-03 and 12-30-03 denied with denial code "G" (procedure is mutually exclusive to another procedure on the same date of service). Per Rule 133.304(c) the carrier did not specify which service code 97140 was global to. Reimbursement is recommended per the Medicare Fee Schedule in the amount of $61.80 ($24.72 X 125%= $30.90 X 2 DOS).

CPT code 98940 date of service 12-23-03 denied with denial code "G" (procedure is mutually exclusive to another procedure on the same date of service). Per Rule 133.304(c) the carrier did not specify which service code 98940 was global to. Reimbursement is recommended per the Medicare Fee Schedule in the amount of $30.14 ($24.11 X 125%).

CPT code 97140 date of service 12-17-03 denied with denial code "N" (documentation to substantiate this charge was not submitted or is insufficient to accurately review this charge). The requestor did not submit documentation for review. No reimbursement is recommended.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 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 effective 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 Decision is applicable for dates of service 12-16-03 through 05-25-04 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 Findings and Decision and Order are hereby issued this 7th day of January 2005.

Debra L. Hewitt
Medical Dispute Resolution
Medical Review Division

DLH/dlh

Enclosure: IRO Decision

December 9, 2004

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:
EMPLOYEE:
POLICY: M5-05-0704-01
CLIENT TRACKING NUMBER: M5-05-0704-01/5278

Medical Review Institute of America (MRIoA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIoA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIoA has performed an independent review of the case in question 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. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIoA for independent review.

Records Received:

Records Received from the State:
- Notification of IRO Assignment, dated 11/29/04 – 1 page
- Texas Workers' Compensatio Commission Form, dated 11/30/04 – 1 page
- Medical Dispute Resolution Request/Response, undated – 2 pages
- Table of Disputed Services, dated 12/16/03-05/25/04 – 4 pages
- Explanation of Payments, dated 02/12/04-07/07/04 – 18 pages

Records Received from Neuromuscular Institute of Texas and the Treating Provider
- Texas Workers' Compensation Form, dated 11/30/04 – 1 page
- Information Request, dated 12/01/04 – 2 pages
- Table of Contents, undated – 1 page
- Letter from Dr. Walker, dated 10/16/02 – 2 pages
- Letter from Dr. Walker, dated 03/03/03 – 2 pages
- Letter from Dr. Walker, dated 06/02/03 – 2 pages
- Letter from Dr. Walker, dated 08/20/03 – 2 pages
- Letter from Dr. Walker, dated 09/19/03 – 2 pages
- Letter from Dr. Walker, dated 10/06/03 – 2 pages
- Letter from Dr. Walker, dated 11/14/03 – 1 page
- Letter from Dr. Walker, dated 11/26/03 – 2 pages
- Letter from Dr. Walker, dated 12/16/03 – 2 pages
- Letter from Dr. Walker, dated 12/17/03 – 1 page
- Letter from Dr. Walker, dated 12/29/03 – 2 pages
- Letter from Dr. Walker, dated 01/21/04 – 2 pages
- Letter from Dr. Walker, dated 02/10/04 – 2 pages
- Letter from Dr. Walker, dated 02/20/04 – 2 pages
- Letter from Dr. Walker, dated 04/06/04 – 2 pages
- Letter from Dr. Walker, dated 04/21/04 – 1 page
- Letter from Dr. Walker, dated 09/17/04 – 2 pages
- Chart Notes, dated 09/13/02-10/24/02 – 2 pages
- Daily Treatment Log, dated 03/10/03-03/05/04 – 73 pages
- Texas Workers' Compensation Work Status Report, dated ?/29/03-04/06/04 – 8 pages
- Report pf Medical Evaluation, dated 06/10/04 – 1 page
- Letter from Dr. Walker, dated 06/12/03 – 2 pages
- Large Extremity Range of Motion Exam, dated 06/12/03 – 4 pages
- Letter from Dr. Walker, dated 07/17/03 – 3 pages
- Large Extremity Range of Motion Exam, dated 07/17/03 – 4 pages

- Letter from Dr. Walker, dated 08/11/03 – 2 pages
- Grip Exam, dated 08/11/03 – 3 pages
- Grip Strength History, undated – 2 pages
- Letter from Dr. Walker, dated 10/21/03 – 2 pages
- Computerized Muscle Testing Exam, dated 10/21/03 – 5 pages
- Letter from Dr. Walker, dated 01/06/04 – 3 pages
- Grip Exam, dated 01/06/04 – 3 pages
- Letter from Dr. Walker, dated 11/18/04 – 2 pages
- Grip Exam, dated 11/18/04 – 3 pages
- Letter from Dr. Walker, dated 02/03/04 – 3 pages
- Computerized Muscle Testing Exam, dated 02/03/04 – 5 pages
- Prescription for Durable Medical Equipment, dated 10/13/03–09/17/04 – 6 pages
- Nerve Conduction Study Report, dated 03/27/01 – 2 pages
- NCV and EMG Findings Report, dated 06/16/03 – 3 pages
- Physiatric Evaluation, dated 07/07/03 – 2 pages
- NCV and EMG Findings, dated 02/16/04 – 2 pages
- Letter from Dr. Breckenridge, dated 07/29/03 – 3 pages
- Letter from Dr. Breckenridge, dated 08/12/03 – 1 page
- Letter from Dr. Breckenridge, dated 09/18/03 – 1 page
- Letter from Dr. Breckenridge, dated 10/16/03 – 2 pages
- Letter from Cynthia Sue Solis, PA, dated 11/25/03 – 1 page
- Letter from Dr. Breckenridge, dated 12/09/03 – 1 page
- Letter form Dr. Breckenridge, dated 02/03/04 – 1 page
- New Patient Information, dated 06/25/03 – 1 page
- Letter from Dr. Breckenridge, dated 04/20/04 – 2 pages
- Operative Report, dated 09/10/03 – 2 pages
- Radiology Report, dated 11/22/00 – 2 pages
- Exam Notes, dated 04/12/04 – 1 page
- Psychosocial Assessment – Clinical Interview, dated 07/09/04 – 2 pages
- Treatment Note, dated 07/16/04– 10/01/04 – 7 pages
- Initial Psychological Evaluation, dated 03/01/04–03/02/04 – 5 pages
- Letter from Dynamic Performance, dated 03/10/04 – 2 pages
- Chronic Pain Management Program Team Conference Report Patient Care Plan, dated 03/22/04–04/30/04 – 13 pages
- History of Medical Records and Physical Exams, dated 06/10/04 – 2 pages
- ARCON AIRS – Impairment Rating Report, dated 06/10/04 – 3 pages
- Prescription, dated 02/23/04 – 1 page
- Report of Medical Evaluation, dated 06/10/04 – 2 pages
- Prescription, dated 06/09/04 – 1 page

Records Received from Liberty Mutual

- Texas Workers' Compensation Commission Form, dated 11/30/04 - 1 page
- Handwritten Notes with dates from 01/03-12/04 - 2 pages
- List of Neuromuscular Institute of Texas Practitioners, undated - 1 page
- Preliminary Chiropractic Modality Review, dated 06/12/02 - 3 pages
- Chiropractic Modality Review, dated 04/21/03 - 3 pages
- Preliminary Chiropractic Modality Review, dated 12/03/03 - 3 pages
- Preliminary Chiropractic Modality Review, dated 03/16/04 - 3 pages
- Operative Report, dated 09/10/03 - 2 pages
- Operative Report, dated 11/19/03 - 2 pages

Summary of Treatment/Case History:

The patient is a 26-year-old female employee of with no significant past medical history who, on ___, began feeling pain in her bilateral elbows and wrists after repetitive motion (typing). She tried conservative measures including chiropractic and physical therapy, but eventually underwent right carpal tunnel release on 09/10/03 and then left carpal tunnel release on 11/19/03. These procedures were then followed by post-operative physical therapy and rehabilitation. Despite these invasive interventions, the patient's symptomatology persisted and she was referred to a chronic pain management program. When bilateral open release procedures were recommended, the patient declined them, and she was subsequently deemed MMI on 06/10/04 by a TWCC designated doctor with a 9% whole-person impairment.

Questions for Review:

Please review the attached information and advise:

1. Items in dispute: Chiropractic Manipulative treatment, #97110 - Therapeutic Exercised, #97035- ultrasound, #97018 - Paraffin Bath, #G0283 - Electrical Stimulation Unattended, #97750 - Physical Performance Test, #97140- Manual therapy technique, Office visits, #A4649 - Surgical supply. Denied by carrier for medical necessity with V Codes. Do not review items marked fee. Are these services medically necessary? Date(s) of service in Dispute: 1/2/04 to 5/25/04.

Conclusion - Partial Decision to Certify:

Question 1: Items in dispute: Chiropractic Manipulative treatment, #97110 - Therapeutic Exercised, #97035- ultrasound, #97018 - Paraffin Bath, #G0283 - Electrical Stimulation Unattended, #97750 - Physical Performance Test, #97140- Manual therapy technique, Office visits, #A4649 - Surgical supply. Denied by carrier for medical necessity with V Codes. Do not review items marked fee. Are these services medically necessary? Date(s) of service in Dispute: 1/2/04 to 5/25/04.

Partial yes, as follows:

All services and procedures except chiropractic manipulation, spinal 1-2 regions (#98940) up to and including date of service 01/19/04 are approved. After that date, only the office visits (#99214 and #99213) are approved, and all remaining services and procedures including all chiropractic spinal manipulations within the date range are not medically necessary.

Both the diagnosis and the medical records submitted in this case adequately document that a compensable injury to the patient's bilateral upper extremities occurred. In addition, the patient underwent her second surgical procedure on 11/19/03, so it was reasonable that a post-operative regimen of physical therapy and rehabilitation occur. It was also appropriate that the treating doctor periodically monitor the patient utilizing diagnostic tests and office visits/evaluation and management (E/M) services.

However, with regard to the chiropractic manipulative therapy, spinal 1-2 regions (#98940) service, there was nothing in the documentation submitted that supported the medical necessity of performing spinal manipulation at any time. In fact, the daily SOAP notes provided by the treating doctor failed to even mention that the procedure was performed; rather, according to the records, the only manipulative procedure performed on any date of service involved only the extremities.

Insofar as the denial of therapy procedures after 01/19/04, the *Guidelines for Chiropractic Quality Assurance and Practice Parameters* Chapter 8 under "Failure to Meet Treatment/Care Objectives" states, "After a maximum of two trial therapy series of manual procedures lasting up to two weeks each (four weeks total) without significant documented improvement, manual procedures may no longer be appropriate and alternative care should be considered." Because the documentation in this case demonstrated that the patient's case was complicated and that she was resistant to healing, the medical necessity of a protracted manual therapy treatment plan of up to eight weeks total (or date of service 01/19/04) was supported, but not supported after that date. Therefore, the paraffin baths (#97018), the manual therapy techniques (#97140), and the unattended electrical stimulations (#G0283) after that date of service were denied.

Furthermore, there was no evidence to support the need for continued monitored therapy. Services that do not require "hands-on care" or supervision of a health care provider are not considered medically necessary services even if they were performed by a health care provider. Continuation of an unchanging treatment plan and performance of activities (#97110) that can be performed as a home exercise program are not indicated. The limited gains that were obtained during this time period would have likely been achieved through performance of a home program.

Finally, while there was some documentation regarding durable medical equipment that was dispensed in the records provided for review, they were devoid of either a prescription or a description for the DME at issue here, specifically "#A4649." Upon review of a list of HCPCS codes, this service is

described as “surgical supply; miscellaneous,” rendering determination of medical necessity is impossible since no documentation was supplied by the provider.

References Used in Support of Decision:

Haldeman, S; Chapman-Smith, D; Petersen, D Guidelines *for Chiropractic Quality Assurance and Practice Parameters,* Aspen Publishers, Inc.

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has given numerous presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty years.
MRIoA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIoA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIoA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIoA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIoA harmless for any and all claims, which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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