

MDR Tracking Number: M5-05-0753-01

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 dispute was received on 11/02/03. Dates of service 10/27/03 through 10/30/03 were not timely filed in accordance with Rule 133.308(e)(1) and are not eligible for review.

The IRO reviewed chiropractic manipulations (98940), manual therapy (97140), office visits (99212, 99213), mechanical traction therapy ((97012), neuromuscular re-education (97112), therapeutic exercises (97110) for dates of service 11/03/03 through 2/17/04 that were denied as "V".

The IRO determined that manual traction therapy (11/06/03) and manual therapy (2/27/04) were not medically necessary. The IRO determined chiropractic manipulation (11/03, 11/05, 11/06, and 11/23/03), office visits (1/27 and 2/17/04), and neuromuscular re-education (11/06, 11/12, 11/13, 11/20, 11/24, 12/01/03, and 2/17/04) were medically necessary. The IRO also determined 2 units of therapeutic exercise per day for dates of service 11/03, 11/05, 11/06, 11/10, 11/12, 11/13, 11/19, 11/20, 11/24, 11/26, and 12/01/03 were medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that the requestor prevailed on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308A(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For 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 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 12/07/04, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
11/10/03 11/13/03 11/17/03 2/03/04 3/01/04 3/04/04	98940	\$50.00	\$-0-	No EOB	\$30.14 \$31.35	Rule 133.307(e)(2)(B)	The Requestor did not submit convincing evidence of Carrier receipt of the Providers request for EOBs; therefore, reimbursement is not recommended.
11/10/03	99080-73	\$15.00	\$-0-	No EOB	\$15.00	Same as above	The Requestor did not submit convincing evidence of Carrier receipt of the Providers request for EOBs; therefore, reimbursement is not recommended.
12/23/03	99080-73	\$15.00	\$-0-	V	\$15.00	Rule 129.5	The TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter; therefore, reimbursement is recommended in the amount of \$15.00 .
11/17/03 12/03/03	97110	\$100.00	\$-0-	No EOB No PEC code	\$32.64		See rationale below
12/03/03	97002	\$75.00	\$-0-	No PEC	\$45.74	Rules 133.304(c); 134.202(c)(1)	The Carrier shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance's action(s). There was no payment exception code listed; therefore, reimbursement in the amount of \$45.74 is recommended.
11/19/03 11/20/03	98940	\$50.00	\$-0-	D	\$30.14	Same as above	The Carrier shall provide sufficient explanation to

11/26/03 12/01/03							sufficient explanation to allow the sender to understand the reason(s) for the insurance's action(s). The Carrier did not state what this billing was duplicate to; therefore, reimbursement in the amount of \$120.56 (\$30.14 x 4) is recommended.
12/03/03	99213	\$65.00	\$-0-	D	\$59.00	Same as above	The Carrier shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance's action(s). The Carrier did not state what this billing was duplicate to; therefore, reimbursement in the amount of \$59.00 is recommended.
TOTAL							The requestor is entitled to reimbursement in the amount of \$240.30 .

Rationale for CPT Code 97110:

Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. Additional reimbursement is not 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 for dates of service after August 1, 2003 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 for dates of service 11/03/03 through 2/17/04 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 Order is hereby issued this 25th day of January 2005.

Pat DeVries
Medical Dispute Resolution Officer
Medical Review Division

PRD/prd

Enclosure: IRO Decision



Specialty Independent Review Organization, Inc.

Amended Decision January 24, 2005

January 11, 2005

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

Patient:
TWCC #:
MDR Tracking #: M5-05-0753-01
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. 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 an approximately 100 lb. Object in an extended lumbar position while he twisted to the left causing lumbar pain. The records indicate that he continued working the rest of the day and woke up with back pain the next morning. He sought treatment with Concentra Medical Center, which began PT immediately. He was then sent to Neil Veggeberg, MD for a physical medicine consultation. Dr. Veggeberg performed treatments and provided work restrictions for the next seven to eight months. Mr. ___ continued to complain of pain of severe nature in the lumbar spine. He requested and was granted a TWCC 53 on or about 8/18/03. He presented to the office of Johnathan Whitehead, DC on 9/8/03 with a VAS score of 8/10. Dr. Whitehead initiated a course of manipulation followed by rehabilitation when the VAS had dropped to a manageable level. The patient was returned to

light duty work on 11/11/03 and was placed in a home exercise program on 12/3/03. He continued to present for exacerbations through 3/1/04 according to the records.

Records were received from both the requestor/treating doctor and respondent in this case. Records from the requestor include but are not limited to the following: 12/18/03 request for reconsideration letter, 1/30/04 letter from Dr. Whitehead, new patient evaluation of 9/8/03, lumbar CT scan of 5/14/03, progress evaluations of 10/16/03-12/3/03, visit notes from 10/22/03 through 03/04/2004, Oswestry scale from 9/9/03 through 1/27/04, PT notes from 10/21/03 through 12/3/04. Records from the carrier include but are not limited to the following: 12/13/04 7-day response letter, 11/22/04 letter from FOL, TWCC intake paperwork (TWCC 60 and attachments), 12/12/03 and 2/9/04 peer reviews by Gregory Goldsmith, MD and multiple TWCC 62's.

DISPUTED SERVICES

Disputed services include chiropractic manipulations, manual therapy, mechanical traction therapy, office visits, neuromuscular re-education and therapeutic exercises. Special reports are listed as a reviewable item; however, in each case the CPT code 99080 represented a TWCC 73 form and is not reviewable in this venue. Dates of service under review are from 11/03/03 through 2/17/04 as per the amended decision request.

DECISION

The reviewer agrees with the previous adverse determination regarding 97012 (all dates of service) and 97140 (2/17/04).

The reviewer disagrees with the previous adverse determination regarding all other dates of service in question. The reviewer further indicates that regarding code 97110 (two units are allowed per date of service).

BASIS FOR THE DECISION

The reviewer indicates the above services were found to be medically necessary as they clearly helped the patient reduce his pain and increased his ability to return to work. The manipulations performed by Dr. Whitehead are within the standard of practice. In fact, the usage of manipulation in chronic lower back pain is supported by the AHCPR guidelines and multiple peer reviewed studies. The treatment (both manipulation and rehabilitation) was effective in reducing pain and increasing Mr. ___'s ability to return to work. The treatment under review was for approximately 8 weeks, which is very effective when compared to the year of treatment the patient had received prior to this course of care. Lastly, the patient presented with exacerbations and apparently did not miss work due to the pain. The office visits are approved during late January and mid-February are approved as follow up visits to ensure patient satisfaction and improvement as per accepted protocols. This is in compliance with accepted

treatment protocols per Medicare, Physiological therapeutics and rehabilitation guidelines of the ACRB and the ACOEM Guidelines.

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