

MDR Tracking No. M5-05-0914-01

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 08-19-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the chronic pain management program and unusual travel were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service from 08-19-03 to 09-30-03 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 16th day of December 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

Enclosure: IRO decision

10/26/2004

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

Patient:  
TWCC #:  
**Redocketed to MDR Tracking #: M5-05-0914-01**  
Previous MDR Tracking #: M5-04-4290-01  
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 Medical Doctor with a specialty in Anesthesia, Pain Management and Pain Medicine. 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

According to medical records, \_\_\_ was injured while working for \_\_\_ on \_\_\_ as a carton handler. Her foot was caught by a moving track which caused her to fall with twisting of her torso and direct contusion on the floor with injuries to neck, left wrist, left hip and low back. She completed her shift, reported the injury and was treated at Concentra. Her PCP, Dr. Wilcox, did lab work and realized x-rays. She then had an MRI with cervical and lumbar findings of minimal disc pathology. She was then treated by Dr. Harris and underwent active and passive physical therapy. She was referred to Dr. Stephenson who recommended a right CESI, and she eventually underwent a full series of three CESI procedures. The patient reported significant relief from these procedures. Then, focus shifted to the patient's lower back to provide further interventional pain management. However, her most significant source of pain had always been reported as her cervical spine. She has also been utilizing prescription medications (as part of her work injury) that have included: Ultram, Zanaflex, Ambien, Ativan and Valium. Throughout her injury, the patient has been primarily off work although there is documentation that Dr. Harris attempted to return the patient to work since November 2002 with restrictions and/or light duty. The only further reference to this was that she was to continue off work until the CESI procedures were completed. She underwent a psychological consult in March of 2003 and was enrolled in a psychological pain management program in August/September 2003.

#### DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of:

- Chronic pain management program 08/13/03 to 09/30/04, (97799-CP)
- “Unusual travel” 08/19/03 through 09/30/03 (99082)

## DECISION

The reviewer agrees with the previous adverse determination.

## BASIS FOR THE DECISION

- The provider should not receive reimbursement for the pre-authorized psychological pain management sessions 08/13/03 to 09/30/04 due to treatment for an unrelated condition (As per TWCC Rule 134.600).
- The request for “travel” 08/13/03 to 09/30/04 is excessive and should not be reimbursed to the provider.

In regards to the retrospective medical necessity of the psychological pain management program (08/13/03 to 09/30/04), the reviewer does not agree to the necessity of this treatment for this patient at the time that it was rendered. The patient presented with a pre-existing depressive condition, which was being treated with Effexor by Dr. Kathy Stevens (as reported by the patient herself with an interview conducted by Kathy Davidson). This in itself would pre-dispose the patient to worsening symptoms of depression or anxiety once she presented with a significant pain syndrome. However, after an extensive review of the available records, the reviewer does not find any mention of the patient referring subjective symptoms of depression or significant psychosocial barriers. The only reference to a pain management program is by her treating doctor (Scott Harris, DC) when he requested the program and then later to report improvement after completing 2/3 of the program. There is also a mention in the 11/05/02 follow-up note from Dr. J. Stephenson (interventional pain management) who states the patient has “a slightly depressed mood”. The patient simply mentions that she feel that she cannot return to work with her pain. However, the patient had undergone two functional capacity evaluations early in her treatment (10/02/02 and 10/30/02) that deemed her capacity as light/medium and later as medium/heavy categories. Apparently, the patient’s return to work was apparently delayed due to epidural steroid injection interventions (x 3) and not psychosocial overlay.

Nonetheless, the patient was referred to a psychological consult on 03/12/03 at Positive Pain Management. In this report, the impression was of “psychological disorder associated with a medical condition” but in the body of the report she reported that the patient was very well adjusted and presented with a 2 on the Beck Depression Scale. In the psychological evaluation, the patient said that she could no longer work or spend time with her family due to pain, and that pain was the main factor impeding her from actively working. After this consult, the patient underwent the CESI treatment and referred significant results of pain relief. At this point, the reviewer is unsure as to why she did not return to work or at least participate in a vocational rehabilitation program if necessary. She did then refer some persistent lumbar symptoms, but the

reviewer indicates that a return to work was possible. Her physical capacity was certainly not an impediment according to her FCE results. The reviewer notes that she did not present any significant psychosocial issues that would warrant an extended pain management program especially for a patient that has not reported any significant psychological symptoms and was “well adjusted” per the psychologist herself. In addition, the patient was being treated for a depressive condition previous to her date of injury. The reviewer feels that all depressive symptoms would then be pre-existing in this case and not related to this injury in particular. In the first paragraph of Dr. Bizzell’s discharge summary, she makes a point to state that her depressive symptoms are now minimal which denotes that treatment of her depression was a strong focus of her treatment. Her pain levels decreased only minimally during the course of treatment and the discharge summary states that she would need interval psychological after-care to maintain the benefit of the program. Obviously, the patient’s perception of pain would continue to persist since the source was not psychological.

Therefore, the reviewer does not feel that this service was medically necessary in this particular case. The reviewer also feels that there is documentation that supports a pre-existing depressive pathology, which initiated pharmaceutical treatment several weeks prior to her work related injury. The reviewer agrees with the provider that the TWCC Rule 134.600 is applicable in this case. This rule clearly states that full payment is to be rendered to all services which are pre-authorized, unless the “health care was provided for a condition unrelated to the compensable injury”. As mentioned, the reviewer feels that the patient presented with a documented depressive pathology prior to the injury and does not present with any significant documentation throughout her treatment for her work related injury that makes reference to direct relation of developing psychosocial issues or symptoms. The only significant reference was in the psychological evaluation itself in which the psychologist felt that the patient was well adjusted.

- The second matter at hand is the daily transportation costs related to her visits to her chronic pain management program. These costs are being billed as \$100 daily cost for transportation. From extensive review of the records, the reviewer understands that both the claimant and the Positive Pain Management Center are located in San Antonio, TX. This would implicate that the travel distance would be approximately 147 miles each way. This is unreasonable and not

medically necessary. Whether or not the patient’s pain management program was medically necessary, this travel distance is excessive and the reviewer feels that the claimant could have attended a program with much closer proximity to her residence. In addition, if the patient were actually driving/ riding this distance on a daily basis, this would most probably be the most significant culprit in her pain exacerbation due to maintaining a seated position for such prolonged periods of time.

References: TWCC Rule 134.600 subsections b.1.B. and c.

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