

MDR Tracking Number: M5-05-0929-01

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 11-19-04.

The IRO reviewed office visits, therapeutic exercises, massage, electrical stimulation-unattended, group therapeutic exercises, supplies, electrical stimulation-manual, physical performance test and chiropractic manipulative treatment rendered from 11-19-03 through 04-02-04 that were denied based upon "V".

The IRO determined that the services rendered on 11-19-03, 11-21-03, 11-25-03, 11-26-03 and 12-01-03 as well as 02-04-04 through 04-02-04, evaluation and management services and CPT codes 97150 and 99070 **were not** medically necessary. The IRO determined that physical therapy services from 12-03-03 through 02-02-04 **were** 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 02-21-05, 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 99080-73 date of service 12-01-03 denied with denial code "U" (unnecessary medical without peer review) and date of service 03-31-04 denied with denial code "V" (unnecessary medical with peer review). Per Rule 129.5 the TWCC-73 is a required report and is not subject to an IRO review. Reimbursement is recommended in the amount of **\$30.00 (\$15.00 X 2 DOS)**. A Compliance and Practices referral will be made as the carrier is in violation of Rule 129.5.

Review of CPT codes 99211, 97110, 97124, G0283 and 99080-73 date of service 01-05-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide

convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

This Findings and Decision is hereby issued this 23rd day of March 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

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 the amount of \$3,947.90 in accordance with the 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 12-03-03 through 02-02-04 and for date of service 03-31-04 in this dispute.

This Order is hereby issued this 23rd day of March 2005.

Margaret Ojeda, Manager
Medical Dispute Resolution
Medical Review Division

MQO/dlh

Enclosure: IRO Decision

Envoy Medical Systems, LP
1726 Cricket Hollow
Austin, Texas 78758
Fax 512/491-5145

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

February 15, 2005

Re: IRO Case # M5-05-0929-01 amended 2/21/04

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Physical Medicine and Rehabilitation, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Peer Review 11/18/03 Dr. Sage
4. DDE Dr. Green
5. CT Lumbosacral spine 1/5/04
6. Notes Dr. Rosenstein
7. Operative report Dr. Rosenstein 8/12/03
8. Physical therapy progress notes

History

The patient is a 22-year-old male who injured his back in ___ while using a shovel to pick up cement. When he tried to stand up he had pain in the low back. The patient was treated with passive modalities, chiropractic, physical therapy, medications, epidural steroid injections and work restrictions. The patient was referred to a neurosurgeon, and was diagnosed with left lumbar radiculopathy, L5-S1 disk herniation, and internal disk disruption syndrome L5-S1. The patient underwent surgery on 8/12/03, and was released by his surgeon on 9/15/03 to begin passive physical therapy, electrical stimulation and massage. This was continued for eight weeks. The patient then was released by his surgeon on 12/3/03 to begin active physical therapy. The last follow up note submitted for this review dated 1/29/04 states that the patient should be scheduled for L2-3, L3-4 and L4-5 facet injections. Physical therapy continued until 4/2/04.

Requested Service(s)

Office visits, therapeutic exercises, massage, elec. Stim. Unattended, group therapeutic exercises, supplies, electrical stimulation, manual, physical performance test, chiro. Manipulative treatment 11/19/03 – 4/2/04

Decision

I agree with the carrier's decision to deny the requested services on 11/19/03, 11/21/03, 11/25/03, 11/26/03 and 12/1/03 and for the period 2/4/04 – 4/2/04; evaluation and management services. I also agree with the decision to deny CPT codes 97150 and 99070.

I disagree with the denial of physical therapy 12/3/03 – 2/2/04.

Rationale

The patient underwent surgery on 8/12/03. At his follow up office visit he was given a prescription to begin passive physical therapy, including electrical stimulation and massage. According to Dr. Sage's conversation with the surgeon, this was necessary for four weeks post operatively. The dates 11/19/03 through 12/1/03 are beyond the four week period that was recommended as necessary by the spine surgeon. This was also before the patient was cleared to begin active physical therapy.

Evaluation and management service are not necessary at the time of physical therapy services, when the patient is scheduled for treatment.

Codes 97150 and 99070 are unknown and undocumented in the physical therapy notes.

By 2/4/04 the patient had already completed eight weeks of active physical therapy three times per week. No documentation was provided indicating the medical need for continued physical therapy after eight weeks.

On 12/3/03 the patient followed up with the surgeon and was cleared to begin active physical therapy. The passive modalities at the time of active physical therapy were a medically necessary adjunct to help improve the benefits of the active exercises. One hour of physical therapy three times per week for eight weeks would be medically appropriate and necessary at this time following surgery.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Daniel Y. Chin, for GP