MDR Tracking Number: M5-05-1133-01 **(Previously M5-04-3201-01)**

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 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a dispute resolution review was conducted by the Medical Review Division regarding a medical payment dispute between the requestor and the respondent named above. This dispute was received May 24, 2004

This AMENDED FINDINGS AND DECISION supersedes all previous Decisions rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision of November 10, 2004 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 12-07-04. An Order was rendered in favor of the Requestor. The Requestor appealed the Order to an Administrative Hearing because carrier's reconsideration denials state "Per RME, treatment not to exceed 8 wks/not past 5-24-03" or "Per RME, treatment not to exceed 8 wks" or "Per RME examination: treatment not reasonable and necessary after 8 weeks." All of these reasons allude to the Required Medical Examination as the basis for the denial. This is a medical opinion and as such all dates of service affected by these denial reasons, should be reviewed by an IRO.

I. DISPUTE

Whether the following services were medically necessary: office visits, therapeutic exercises, manual traction, joint mobilization, manipulations, physical/functional performance examinations, manual therapy, neuromuscular re-education and mechanical traction rendered from 05-30-03 through 10-09-03.

II. RATIONALE

The Division has reviewed the enclosed AMENDED IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

The IRO reviewer disagrees with the previous adverse determination regarding the office visits from 05-30-03 through 07-09-03; thereafter the following office visits are medically necessary: 07-1703, 07-25-03, 08-01-03, 08-08-03, 08-15-03, 08-22-03, 08-29-03, 09-10-03, 09-17-03, and 10-08-03. Four units of therapeutic exercises from 06-02-03 through 07-15-03; manipulations from 06-13-03 through 08-07-03 were found medically necessary.

The reviewer agrees that all of the remaining services were not medically necessary.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be addressed by the Medical Review Division.

On 07-14-04, the Medical Review Division submitted a Notice to the 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.

In accordance with rule 133.307(e)(2)(A) a copy of all medical bills as originally submitted to the carrier for reconsideration in accordance with 133.304 (k)(1)(A) were not submitted by the requestor for CPT code 99080-73 for dates of service 06-10-03, 07-10-03 and 08-15-03, therefore, reimbursement is not recommended.

This Findings and Decision is hereby issued this day of February 2005.

Patricia Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

III. AMENDED DECISION & 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 the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) and 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 05-30-03 through 10-08-03 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 day of February 2005.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

Specialty Independent Review Organization, Inc.

1/31/05 AMENDED REPORT OF File M5-04-3201-01

07/25/2004

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

Patient:
TWCC #:
New MDR Tracking #: M5-05-1133-01
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 with a specialty in Rehabilitation. 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.

A request to perform a new review was received in full from TWCC on 1/25/05. An additional five months of care was requested to be reviewed and a new MDR# was assigned.

CLINICAL HISTORY

Mr. ___ was injured on the job on __ while lifting a trash bag onto a trash truck for the . He presented to the office of Angela Upchurch on 4/8/03. Passive therapies were performed followed by active rehabilitation on 6/11/03. Active rehabilitation was performed from 6/11/03 through 9/26/03. Hooman Sedighi, MD performed a peer review/RME on 8/21/03. Notes were

included regarding an unknown patient, ___ by the carrier. A work-conditioning program was performed following a denial of work hardening by the carrier. The patient was placed at MMI on 3/30/04 with a 2% WP impairment. The patient's history is significant for diabetes, hypertension and obesity.

RECORDS REVIEWED

Records were received from the requestor/treating doctor and from the respondent. Records from the respondent include but are not limited to the following: 7/21/04 letter from Harris and Harris, Initial FCE from the Work and Accident Clinic (WAC), 9/11/03 case conference note by Phil Bohart, LPC, various TWCC 73's, left shoulder MRI of 8/19/03, WAC daily notes from 04/09/03 through 7/25/03, weekly work conditioning program notes from 10/17/03 through 12/5/03, work conditioning daily activity notes from 10/17/03 to 12/5/03, individual psych notes from Phil Bohart, LPC, RME report from Charles Xeller, MD regarding an unknown patient 'Alvin Jones', TWCC 73 by Dr. Xeller re: Mr. Jones, RME by Hooman Sedighi, MD, PPE of 7/30/03, 7/25/03 behavioral consult with Mr. Bohart, 6/26/03 letter from Angela Upchurch, DC, 5/23/03 PPE, two view shoulder radiological report of 5/2/03, 4/23/03 note by Raphael Emanuel, MD and an initial exam sheet dated 4/8/03.

The following represent records provided by the requestor. These records include some of the above-mentioned records. The following records are an attempt to provide the additional records provided by the requestor. They include but are not limited to the following: 5/21/04 letter from Angela Upchurch, DC, 9/15/03 request for reconsideration letter, nonauthorization of WH note by Ward N. America, various TWCC 73's, injury prevention class notes of 6/27/03, rehab exercise cards from 6/11/03, letters of med necessity for adhesive pads, 9/5/03 FCE, informed consent paperwork for FCE, letter of med necessity for biofreeze, daily notes from WAC from 7/30/03 through 10/9/03, rehab exercise cards from 6/11/03 through 9/26/03.

An additional four pages of tables of disputed services and forty-six pages of EOB's' were sent by TWCC. Dates of service on the newly submitted tables include from 5/30/03 through 9/18/03.

DISPUTED SERVICES

Disputed services include office visits, therapeutic exercises, manual traction, joint mobilization, manipulations, physical/functional performance examinations, manual therapy, neuromuscular re-education and mechanical traction from 05/30/03 through 10/9/03.

DECISION

The reviewer disagrees with the previous adverse determination regarding the office visits from 5/30/03 through 7/9/03; thereafter the following office visits are medically necessary (7/17/03, 7/25/03, 8/1/03, 8/8/03, 8/15/038/22/03, 8/29/03, 9/10/03, 9/17/03 and 10/8/03. Four units of therapeutic exercises are approved from 6/2/03 through 7/15/03, manipulations are approved from 6/13/03 through 8/7/03.

The reviewer agrees with the previous adverse determination regarding all other services.

BASIS FOR THE DECISION

The reviewer indicates the approved therapeutics are based upon a standard in office protocol of four to six weeks of rehabilitation. The reviewer further indicates that the provider performed rehabilitative services of exactly the same type and protocol from 6/11/03 through 9/26/03 according to the documentation (rehabilitation exercise card). This is not supportive of continued care as the Guidelines indicate the provider should have changed the protocols for this patient because the patient was not improving with care. Pain scales were relatively unchanged over a five-month treatment plan. Passive care cannot be supported at this late date of treatment. Neuromuscular re-education is neither documented in the records supplied nor was it apparently effective; therefore, it cannot be approved. None of the TWCC 73's indicate that the patient was returned to work in any capacity during the care under review, the patient's pain scales did not decrease significantly and there were no notes indicating the patient's functional ability was significantly increased. There were slight improvements via the FCE testing as noted by the treating doctors' letter; however, the improvement was minimal and there were areas, which either did not improve or got worse over the course of treatment. For example the 7/30/03 Functional Test indicates the right shoulder ROM (unaffected limb) was far below established norms, strengths were reduced as of the 9/5/03 FCE in all measures. They were less than 10% of NIOSH established norms. This is likely indicative of a non-cooperative patient which is likely leading to a longer than normal treatment pattern. The reviewer indicates the basis for decision is based upon the Mercy Guidelines, ACOEM Guidelines and the Council of Physiologica¹ Therapeutics and Rehabilitation 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