

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER: 453-05-6540.M5

MDR Tracking Number: M5-05-1283-01

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 (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 1-3-05.

The Division has reviewed the enclosed 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.

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

Manual therapy techniques and one unit only of ultrasound per each date of service **were found** to be medically necessary. The therapeutic exercises, neuromuscular re-education, ultrasound, electrical stimulation-unattended, occupational therapy re-evaluation and paraffin bath **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute 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 1-20-05, 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.

The carrier denied CPT Code 99080-73 on 5-14-04 with a V for unnecessary medical treatment, however, the TWCC-73 is a required report and is not subject to an IRO review per Rule 129.5. The Medical Review Division has jurisdiction in this matter and, therefore, recommends reimbursement. **Recommend reimbursement of \$15.00.**

The carrier denied CPT Code 99214 on 4-22-04 as "G-U454" – This office visit is included in the value of the surgery or anesthesia procedure. Per Ingenix Encoder Pro CPT code 20552 includes the injection procedure only. The medical notes regarding these services show that two of the three required criteria of CPT code 99214 were performed. **Recommend reimbursement of \$96.91.**

The carrier denied CPT Code J2000 on 4-22-04 as "X006" – Local infiltration, digital block or topical anesthesia is included in the value of the surgery procedure. Per Ingenix Medicare Correct Coding Guide "Anesthesia administered by a physician performing a procedure is included in the procedure." **Recommend no reimbursement.**

**On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the Respondent to pay the unpaid medical fees outlined above as follows:**

- In accordance with Medicare program reimbursement methodologies for dates of service on or after 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 Order is applicable to dates of service 1-13-04 through 5-21-04 totaling \$577.31 as outlined above in this dispute.

This Decision and Order is hereby issued this 5<sup>th</sup> day of April 2005.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

DA/da

Enclosure: IRO decision

**April 4, 2005**  
February 1, 2005

Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

**REVISED REPORT**  
**Corrected items in dispute and rationale.**

Re: Medical Dispute Resolution  
MDR #: M5-05-1283-01  
TWCC#:  
Injured Employee:  
DOI:  
SS#:  
IRO Certificate No.: IRO 5055

Dear Ms. \_\_\_\_:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that

there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic, and is currently on the TWCC Approved Doctor List.

Sincerely,

Gilbert Prud'homme  
General Counsel

GP:thh

## **REVIEWER'S REPORT M5-05-1283-01**

### **Information Provided for Review:**

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

- Correspondence
- Chiropractic office notes & treatment log 04/29/03 – 11/01/04
- Operative report 02/24/04 (Orthopedic Surgeon)
- Prescription 03/22/04
- EMG/NCV office visit 07/22/03 (Physical Med/Rehab)
- Physical Medicine/Rehab office notes 09/02/03 & 01/07/04
- Psychologist interview, profile, biofeedback & office notes
- Injections 05/15/03 – 05/17/04
- Occupational therapy evaluations & therapies 10/07/03 – 06/14/04
- EMG/NCV, RME, DDE & X-rays 05/16/03 – 10/15/04

Information provided by Respondent:

- Correspondence
- Designated doctor exams

### **Clinical History:**

This patient is a 32-year-old female who, on \_\_\_\_, began having pain in both her upper extremities. She presented herself to a doctor of chiropractic for a trial of conservative treatment, but eventually received injections, followed by post-injection physical therapy, and then both left cubital tunnel and left carpal tunnel release procedures. She was determined by a designated doctor to be at MMI on 10/15/04 with a 5% whole-person impairment to the non-disputed areas (bilateral wrists and left elbow), and a 13% whole-person impairment for the disputed areas (cervical spine and left shoulder). The treating doctor opined that she was MMI on 11/01/04 with a 16% whole-person impairment, including all areas, both disputed and non-disputed.

**Disputed Services:**

Manual therapy technique, therapeutic exercises, neuromuscular re-education, ultrasound, electrical stimulation-unattended, occupational therapy re-evaluation, and **paraffin baths** during the period of 01/13/04 thru 05/21/04.

**Decision:**

The reviewer partially agrees with the determination of the insurance carrier as follows:

Medically necessary:

- all manual therapy techniques during the period in dispute
- one unit only of ultrasound per each date of service during the period in dispute.

Not medically necessary:

- all other treatment, services & evaluations in dispute as stated above.

**Rationale:**

In this case, the patient received a course of injection therapy that was followed by post-injection physical therapy. Not only did the patient receive a post-injection prescription from the medical doctor who performed the procedure, but also the carrier-selected peer reviewer agreed that 12 sessions following the 2/24/04 injection were medically necessary.

However, after careful review of the specific prescription, referral was made for only therapeutic exercises and ultrasound with no mention of unattended electrical stimulation (G0283), paraffin baths (97018, or neuromuscular re-education (97112). Furthermore, according to accepted physical therapy literature,<sup>1</sup> paraffin is primarily indicated for non-acute arthritic joints, bursitis, post-fracture stiffness, strains/sprains and tenosynovitis. And, in regard to the neuromuscular reeducation services (97112), there was nothing in either the diagnosis or the physical examination findings on this patient that demonstrated the type of neuropathology that would necessitate the application of this service. According to a Medicare Medical Policy Bulletin<sup>2</sup>, "This therapeutic procedure is provided to improve balance, coordination, kinesthetic sense, posture, motor skill, and proprioception. Neuromuscular reeducation may be reasonable and necessary for impairments which affect the body's neuromuscular system (e.g., poor static or dynamic sitting/standing balance, loss of gross and fine motor coordination, hypo/hypertonicity). The documentation in the medical records must clearly identify the need for these treatments." In this case, however, the documentation did not meet these requirements. Therefore, not only did the referring surgeon not indicate these treatments as appropriate, their medical necessity was unsupported in the literature.

In terms of the multiple reported units of ultrasound, considering the body areas treated, one unit of per patient encounter would have adequately addressed the treatment areas

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<sup>1</sup> *Applied Physiotherapy, Practical Applications with Emphasis on the Management of Pain and Related Syndromes*, P. Jaskoviak, D.C., R. Schafer, D.C. (American Chiropractic Association); pages 146-152

<sup>2</sup> HGSA Medicare Medical Policy Bulletin, Physical Therapy Rehabilitation Services, original policy effective date 04/01/1993 (Y-1B)

per CPT<sup>3</sup>. In addition, the medical necessity of the second unit was also unsupported in the documentation as the “Daily Treatment Logs” only recorded “5 min” whenever time was specifically mentioned.

Insofar as the therapeutic exercises (97110) were concerned, there was no evidence to support the need for continued monitored therapy. Services that did not require “hands-on care” or supervision of a health care provider are not considered medically necessary services even if the services were performed by a health care provider. In other words, the provider failed to establish why the services were required to be performed one-on-one when current medical literature states, “...there is no strong evidence for the effectiveness of supervised training as compared to home exercises.”<sup>4</sup> Furthermore, even if the extensive one-on-one therapy had been medically necessary, it would not have been needed for the duration of time reported in this case.

And finally, the medical necessity of the occupational therapy evaluation (97004) performed on 4/27/04 was unsupported because the physical therapy was already under the direction of both the medical doctor who performed the injections as well as the treating doctor of chiropractic who was performing monthly progress evaluations.

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<sup>3</sup> *CPT 2004: Physician's Current Procedural Terminology, Fourth Edition, Revised.* (American Medical Association, Chicago, IL 1999),

<sup>4</sup> Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. *Spine.* 2003 Feb 1;28(3):209-18.