

MDR Tracking Number: M5-05-1449-01

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 8-30-04.

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 §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the 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.

The biofeedback and reports from 3-16-04 through 3-19-04 were 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 11-10-04 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.

Regarding CPT code 90801 on 12-16-03 - Neither the carrier nor the requestor provided EOB's for date of service. The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). The requestor also provided office notes of the consultation. Respondent did not provide EOB's per Rule 133.307(e)(3)(B). **Recommend reimbursement of \$875.80 for 5 units.**

CPT code 90889 was denied as "G" – Unbundling. Per rule 133.304 (c) Carrier didn't specify which service this was global to. **Recommend reimbursement of \$90.00.**

This Finding and Decision is hereby issued this 21st day of January 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

Pursuant to 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 (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 12-16-03 through 3-19-04 as outlined above 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 21st day of January 2005.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO decision



Specialty Independent Review Organization, Inc.

November 8, 2004

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

Patient:
TWCC #:
MDR Tracking #: M5-05-0338-01
New MDR Tracking #: M5-05-1449-01
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 Ph.D. and LPC with a specialty in counseling. 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

On ___ while performing lifting duties as part of his employment, the patient reported that his back "locked up" and he developed a sharp pain. The patient was evaluated and began treatment for a herniated nucleus pulposus (HNP) at L5-S1 with compression of the thecal sac and apparent compromise of the proximal left S1 root, degenerative narrowing and disc bulge at L4-L5, and transitional S1 vertebra. On December 10, 1999, Dr. Youngblood reported that there was no improvement in Mr. ___ pain syndrome. On January 7, 2000, Dr. Youngblood performed surgery on Mr. ___ and who reported in February a significant improvement in preoperative pain.

The patient began rehabilitation in conjunction with medications for pain relief. Ongoing pain and evaluations resulted in spinal surgery on May 8, 2001. Continued pain and secondary depression prompted a referral for a psychological evaluation and pain management evaluation and treatment plan. This evaluation determined that the patient did not have any cognitive functioning problems or lack of intelligence that would interfere with behavioral health treatment. A minimum of six sessions of individual psychotherapy as well as biofeedback training to reduce his subjective pain experience.

RECORDS REVIEWED

Report by Dr. Dennis Gutzman 11/15/00
Report by TWCC 9/22/00
Report by Dr. William Matthews 9/29/00
Report by Dr. Sanjay Misra 1/23/01
Report by Dr. William Culver 2/18/03, 10/24/03
Psychological consultation 12/16/03
Biofeedback therapy notes 3/16/04
Biofeedback therapy notes 3/19/04

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of biofeedback and reports.

DECISION

The reviewer disagrees with the previous adverse determination.

BASIS FOR THE DECISION

The psychological consultation on 12/16/03 described the patient as complaining of pain on scale of 1-10 of 7 on a daily basis, with 10 being the worst. He also reported decreased ability to earn a living, take care of self, drive, stand, walk, sit, or sleep for long periods of time. This patient was in need of strategies for coping with pain and improving his ability to acquire restful sleep.

According to A Brief Review of Pain: Assessment and Intervention from a Psychophysiological Perspective (2004), use of surface EMG and peripheral skin temperature are commonly used biofeedback modalities for pain intervention and relaxation.

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