

MDR Tracking Number: M5-05-1534-01

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 01-24-05.

The IRO reviewed manual therapy techniques, therapeutic exercises and electrical stimulation rendered from 02-09-04 through 03-30-04 that were denied based upon "V".

The IRO determined that one (1) unit of manual therapy and two (2) units of therapeutic exercises between dates of service 02-09-04 and 03-10-04 **were** medically necessary. The IRO further determined that the electrical stimulation for all dates of service in dispute and more than one (1) unit of manual therapy and more than two (2) units of therapeutic exercises between dates of service 02-09-04 and 03-10-04 and all units billed of manual therapy and therapeutic exercises after 03-10-04 **were not** medically necessary. The amount of reimbursement due for the medical necessity issues from the carrier equals **\$836.93**.

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 03-01-05, 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 99213 date of service 03-03-04 denied with denial code "881" (procedures /services are disallowed as they are not authorized). The carrier has made no payment. CPT code 99213 does not require preauthorization per Rule 134.600. Reimbursement is recommended in the amount of **\$61.98 (\$49.58 X 125%)**.

Review of CPT codes 97140 and G0283 date of service 04-01-04 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.

Review of CPT code 97110 date of service 04-01-04 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. In addition, recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one". Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation. No reimbursement is recommended.

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 for dates of service 02-09-04 through 03-10-04 totaling \$898.91 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 Findings and Decision and Order are hereby issued this 21st day of April 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive

Austin, Texas 78738

Phone: 512-402-1400

FAX: 512-402-1012

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M5-05-1534-01
Name of Patient:	
Name of URA/Payer:	Rehab 2112
Name of Provider:	Rehab 2112
<small>(ER, Hospital, or Other Facility)</small>	
Name of Physician:	Ramesh Sanghani, DC
<small>(Treating or Requesting)</small>	

March 22, 2005

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Texas Workers Compensation Commission

CLINICAL HISTORY

Documents Reviewed Included the Following:

1. Correspondence, examination reports, treatment records and work hardening treatment records from the provider.
2. Report from Robert G. Winans, M.D.
3. Designated doctor report
4. IME
5. Reports from James E. Laughlin, D.O.
6. Diagnostic imaging reports
7. Psychological evaluation
8. Concentra Medical Center reports
9. Reports of Fred C. Seals, D.C.
10. Work Hardening records of Rehab 2112
11. FCEs
12. PRIDE treatment records

Patient underwent examinations, diagnostic imaging, injections and physical medicine treatments after she sustained injury to her lumbar spine after lifting at work on ____.

REQUESTED SERVICE(S)

Work hardening (97545-WH-CA) and work hardening each additional hour (97546-WH-CA) from 04/05/04 to 04/28/04 and the 04/29/04 FCE.

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

The 04/29/04 FCE is denied on the basis that the patient's lack of response to treatment was obvious many weeks prior to the 04/29/04 disputed evaluation thus making it medically necessary.

In the preamble of the Texas Workers Compensation Commission's amendments to rule 134.600, the Commission states as follows: "Over-utilization of medical care can both endanger the health of injured workers and unnecessarily inflate system costs. Unnecessary and inappropriate health care does not benefit the injured employee or the workers' compensation system. Unnecessary treatment may place the injured worker at medical risk, cause loss of income, and may lead to a disability mindset. Unnecessary or inappropriate treatment can cause an acute or chronic condition to develop." ¹ In its report to the legislature, the Research and Oversight Council on Texas Workers' Compensation explained its higher costs compared to other health care delivery systems by stating, "Additional differences between Texas workers' compensation and Texas group health systems also widen the cost gap. These differences include...in the case of workers' compensation, the inclusion of costly and questionable medical services (e.g., work hardening / conditioning.)" ² In this case, the provider's work hardening program is just the type of questionable services of which the TWCC and the legislature spoke when expressing concern in regard to medically unnecessary treatments that may place the injured worker at medical risk, create disability mindset, and unnecessarily inflate system costs.

¹ 26 Tex. Reg. 9874 (2001)

² "Striking the Balance: An Analysis of the Cost and Quality of Medical Care in Texas Workers' Compensation System," Research and Oversight Council on Workers' Compensation, Report to the 77th Legislature, page 6.

Rehabilitative exercises may be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home with the least costly of these options being a home program. A home exercise program is also preferable because the patient can perform them on a daily basis. On the most basic level, the provider has failed to establish why the services were required to be performed one-on-one or that multidisciplinary treatments were indicated when current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises. There is also no strong evidence for the effectiveness of multidisciplinary rehabilitation as compared to usual care."³

Moreover, the previously attempted physical medicine procedures and prior work hardening sessions had within them the exercises and modalities that are inherent in and central to the disputed work hardening program. In other words and for all practical purposes, much of the program had already been attempted and failed. Therefore, since the patient is not likely to benefit in any meaningful way from repeating unsuccessful treatments, the disputed treatments were medically unnecessary.

The records also fail to substantiate that the disputed services fulfilled the statutory requirements⁴ since the patient obtained no relief, promotion of recovery was not accomplished and there was no enhancement of the employee's ability to return to employment. Specifically, the patient's pain rating was 6-/10 on 04/05/04 at the initiation of the disputed treatment but had increased to 7/10 at the termination of the disputed treatment on 04/28/04.

³ 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.

⁴ Texas Labor Code 408.021