

MDR Tracking Number: M5-05-1545-01

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 1-25-05.

In accordance with Rule 133.308 (e)(1), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The following date(s) of service are not timely and are not eligible for this review: 12-26-03 through 1-21-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of 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.

Office visits, therapeutic exercises, neuromuscular reeducation, manual therapy, electrical stimulation, therapeutic activities and group therapeutic procedures before March 22, 2004 were found to be medically necessary. All services after March 22, 2004, ultrasound, mechanical traction and analysis of data **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services. **The amount due the requestor for the medical necessity issues is \$5,511.61.**

This Finding and Decision is hereby issued this 13<sup>th</sup> day of April 2005.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

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 totaling \$5,511.61 from 1-26-04 through 3-15-04 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 hereby issued this 13<sup>th</sup> day of April, 2005.

Margaret Ojeda, Manager  
Medical Necessity Team  
Medical Dispute Resolution  
Medical Review Division

MO/da

Enclosure: IRO decision



Specialty Independent Review Organization, Inc.

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April 6, 2005

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

Patient:  
TWCC #:  
MDR Tracking #: M5-05-1545-01  
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. 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

This patient was injured on his job with the \_\_\_\_\_ when he tossed a chain into the air, causing an immediate onset of pain in his right shoulder. He was treated by Dr. Torres and given pain medication. One week later the patient had an MRI performed which indicated a tear of the rotator cuff and impingement syndrome to the shoulder. A surgical decompression and rotator cuff repair was performed on August 15, 2003. The patient began physical therapy at Ortho Sports Physical Therapy shortly after the surgery and continued there until October 20, 2003 at which time he apparently changed doctors Kelsey Bell, DC, at the Harrison Heights Institute. He was treated with active and passive therapy from that date until October 4, 2004. A physical medicine evaluation by Robert Wright, MD, indicated on March 9, 2004 that the patient would need work hardening, EMG, orthopedic consultations and a possible MUA. Records are unclear whether any of this was performed by the treating doctor or whether he was referred for such care.

Records reviewed:

From the carrier:

Peer Review from Jason Fuller, DC, dated April 26, 2004, Impairment rating by Herbert Brannan, MD dated March 22, 2004, RME of Donald Nowlin, MD, date March 8, 2004.

From the requestor:

PT and office notes from December 24, 2003 through April 24, 2004, TWCC-69 of Herbert Brannan, MD, designated doctor, dated April 22, 2004, physical medicine evaluation by Robert Wright, MD, HCFA forms from the requestor, EOB's from the carrier.

### DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of office visits 99214/99213, therapeutic exercises 97110, neuromuscular re-education 97112, analysis of data 99090, manual therapy 97140, electrical stimulation G0283, therapeutic activities 97530, ultrasound therapy 97035, group therapeutic procedures 97150 and mechanical traction 97012 from December 26, 2003 through October 4, 2004.

## DECISION

The reviewer agrees with the previous adverse determination regarding all care after March 22, 2004, for ultrasound 97035, mechanical traction 97012 and analysis of data 99090.

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

### BASIS FOR THE DECISION

The records indicate that this patient continued to make marked improvement in his condition through the date of MMI, assessed by Dr. Brannon. The peer reviewer's own records confirm this by citing FCE evaluations and the Ranges of Motion data that demonstrated improvement in the patient's condition. There was an apparent setback during the period between the first 2 FCE's, but this is not uncommon in an aggressive active exercise program. The marked improvement between January and February ROM data and the impairment rating of March 22, 2004 is consistent with the FCE data of February 19, 2004, within reason. It appears that the patient became static and stable during this interim period and the care rendered up to the date of MMI is reasonable and necessary. There is no indication that ongoing care was reasonable or necessary and passive therapies, such as ultrasound would not be indicated past about 4 weeks post-surgical in a normal patient. There is no indication from the documentation presented that this patient was in any way unusual in his needs, nor is there any indication that he would need traction. It would be inappropriate to perform traction on a shoulder that was status post-surgical for a torn rotator cuff and there is no indication that this patient was injured in the spinal region. The reviewer consulted both the TCA Guidelines to Quality Assurance and the Mercy Center Guidelines in performing this review. The key to the finding is the fact that the patient does seem to have continued to have ongoing improvement in his treatment plan during the dates in question up to March 22, 2004 and this would, according to the reviewer's interpretation of the guidelines, demonstrate a medical necessity for the care rendered during that time, with the exceptions noted above.

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, CEOCC:  
Specialty IRO Medical Director