

MDR Tracking Number: M5-05-1682-01

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 8-20-03.

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.

CPT code 99244-office visit, CPT code 95861-EMG, CPT code 95900-nerve conduction - no F wave X4, and CPT code 95904-sensory each nerve X5, **were found** to be medically necessary. CPT code 95935 - H or F reflex Study was also found to be medically necessary. However, this is an invalid Medicare code and payment can not be ordered. CPT code 95869 – Needle EMG, CPT code 95831 – Muscle Testing, CPT code 95851 - ROM Measurements and all of the HCPCS codes **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 \$660.00.**

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 3-3-05 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.

5 units CPT code 95935 were denied by the carrier as "D" – Duplicate. However, this is an invalid Medicare code and payment can not be ordered.

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 \$660.00 on 4-10-03 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 Decision and Order is hereby issued this 8th day of April 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

DA/da

Enclosure: IRO decision



Specialty Independent Review Organization, Inc.

Amended Report April 6, 2005

March 21, 2005

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

Patient:
TWCC #:
MDR Tracking #: M5-05-1682-01
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 Medical Doctor with a specialty in Neurology. 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

The records submitted for review indicated that Mr. ___ suffered an injury to his lower back while at work on ___. There are no medical records submitted from the time of Mr. ___'s injury. According to Dr. Vaughn's consultation report, he fell off a ladder landing on his back from a height of about 6 feet. He had no loss of consciousness, but he had back pain and radicular pain on the right after that. An MRI of the lumbar spine obtained on October 12, 2001 showed a right L5-S1 disk herniation impinging on the right S1 nerve root sleeve and there was mild stenosis of the L5-S1 neuroforamen bilaterally.

Mr. ___ then underwent a lumbar discectomy by Dr. Bernie McCaskill, but had no change in his symptoms. He attempted to return to work in September 2001, but this was unsuccessful. He had continued complaints of back pain and radicular pain, mostly on the right, but somewhat on the left. Dr. Vaughn's physical examination showed straight leg raising at 80 degrees with a positive Lasègue's sign for back pain on the left and straight leg raising being positive to 70 degrees with a positive Lasègue's for radicular pain on the right. He has reduced sensation in the right S1 distribution, but no other neurologic findings.

Dr. Vaughn recommended a postoperative MRI scan and an EMG study of the lower extremities plus treatment with Vioxx. There were no further notes submitted from Dr. Vaughn. The MRI study was performed at Texas Imaging Center on March 20, 2003. This showed desiccation involving the L5-S1 intervertebral disk. At the L4-5 level there was flattening of the posterior annular contour compatible with diffuse and/or bulging and mild spinal stenosis, but no foraminal narrowing was noted. At the L5-S1 level, there was generalized disk bulging extending 3 mm in the anterior-posterior extent. This abutted the S1 nerve root. There was no spinal stenosis identified. There was mild foraminal narrowing noted bilaterally and mild bilateral facet hypertrophy noted.

A previous medical necessity review performed by Dr. Gary Pampilin, an orthopedic surgeon, on May 17, 2002 indicated limited clinical information due to poor record quality and poor documentation. Dr. Pamplin commented, "there is suggestion that the claimant has some nerve

irritation of the lumbar spine resulting from the compensable injury, and that subsequently the claimant had some surgery". He suggested submission of additional records.

In his addendum dated July 3, 2002, Dr. Pamplin wrote that he reviewed additional records, which indicated that Mr. ___ underwent a decompression on the right at L5-S1 on January 31, 2002. He stated that in the records reviewed, there was no documentation of abnormal objective findings postoperatively, either on the physical examination or based on the diagnostics. He felt that by 3 months after surgery, i.e. April 30, 2002, Mr. ___ was at maximum medical improvement and had no further medical services that would be considered reasonable or necessary and causally related to the comprehensible injury.

Records Reviewed:

1. Medical necessity review: Gary N. Pamplin, MD – 05-17-02.
2. Medical necessity review: Addendum – Gary N. Pamplin, MD – 07-03-02.
3. Orthopedic Consultation: Paul A. Vaughan, MD – 02-20-03.
4. MRI of the lumbar spine: Southwest Diagnostic Imaging Center – 10-12-01.
5. MRI of the lumbar spine: Texas Imaging Center – 03-20-03.
6. X-rays of the lumbar spine: Texas Imaging Center – 03-20-03.
7. Letter of Medical necessity for EMG and nerve conduction studies: Advanced Neurological Associates – 04-07-03.
8. EMG/NCV Neurological Evaluation: Advanced Neurological Associates – John E. Slaughter, DC – 04-10-03.
9. Request for reconsideration: Advanced Neurological Associates – John E. Slaughter, DC – 08-13-03.
10. Multiple claim forms and Explanation of Benefits forms: Advanced Neurological Associates – 04-10-03.
11. Response to Initial TWCC MR-116: Advanced Medical Associated – PC, John E. Slaughter, DC – 09-03-03.
12. Request for Additional Medical to IRO: Advanced Neurological Associates: John E. Slaughter, DC.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of 99244-office visit new patient, 95861-EMG, 95869-EMG, 95900-Nerve Conduction No F Wave, 95904-Sensory Each nerve, 95935-H or F Reflex Study, 95851-ROM Measurement-Ea. Extremity or Truck, A4558-Conductive Paste or Gel, A4215-Needles Only-Sterile, A4556-Electrodes, A4246-Betadine or PhisoHex Solution, A4244-Alcohol or Peroxide, A4454-Tape and 95831 manual muscle test.

DECISION

The reviewer disagrees with the previous adverse determination regarding 99244-office visit new patient, 95861-EMG, 95935 H or F reflex, 95900-nerve conduction no F wave X4 and 95904-sensory each nerve X5.

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

BASIS FOR THE DECISION

The reviewer states that codes 95831, 99831 and 95851 reflect manual muscle testing and range of motion testing; which are not medically necessary.

Code 95861 is not medically necessary because it is not necessary to examine the thoracic paraspinal muscles in a patient with a lumbar radiculopathy and prior lumbar spine surgery.

Only one unit of code 95935 is approved because it is implied that bilateral H-reflexes have been recorded.

Codes A4558, A4215, A4556, A4246, and A4244 represent supplies and equipment (adhesive tape, gel, surface and needle electrodes, etc), which are not medically necessary.

References:

American College of Occupational and Environmental Medicine, Occupational Medicine Guidelines, 2nd edition, pp287-328.

American Association of Electrodiagnostic Medicine. Guidelines for Electrodiagnostic Consultation. February, 2002.

American Medical Association. CPT 2005 Professional Edition.

TLC 408.021

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