

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 2-14-05.

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.

The electrical stimulation, ultrasound, electrodes, manual therapy, therapeutic exercises and chiropractic manipulation from 4-6-04 through 5-14-04 and the therapeutic exercises, manual therapy, and chiropractic manipulation from 5-17-04 through 7-30-04 **were found** to be medically necessary. The electrical stimulation and ultrasound from 5-17-04 through 7-30-04 **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 \$5,300.70.**

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 3-8-05, 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 97139-FT on 7-26-04, 7-27-04, 7-29-04 and 7-30-04 was denied by the carrier as "N – Not appropriately documented." Per Rule 134.202(e)(2) Modifying circumstance shall be identified by use of the appropriate modifier following the appropriate AMA physician's Current Procedural Terminology code. **Recommend no reimbursement.**

This Findings and Decision is hereby issued this 8th 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 \$5,378.38 from 4-6-04 through 7-30-04** 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 8th day of April 2005.

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

MO/da

Enclosure: IRO decision



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NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 4, 2005

To The Attention Of: TWCC
7551 Metro Center Drive, Suite 100, MS-48
Austin, TX 78744-16091

RE: Injured Worker:
MDR Tracking #: M5-05-1696-01
IRO Certificate #: 5242

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Table of disputed service
- Statement letter from the provider
- HICFA's
- Denial letters
- Progress reports
- Operative report dated 3/8/04
- Exam reports

Submitted by Respondent:

- None submitted

Clinical History

According to the supplied documentation it appears the claimant sustained injuries bilaterally to her shoulders. The claimant was being treated by Mark Hensely, D.C. The claimant underwent right shoulder surgery on 3/8/04 with Marcus Newton, D.O. The claimant was sent to All Store Chiropractic and Rehabilitation with John W. Schweitzer, D.C. for post surgical rehabilitation. The claimant began passive and active therapy in the beginning of April 2004 with a transition to active therapy that lasted through the end of July 2004. The claimant underwent manipulations under anesthesia of the right shoulder on 7/26/04. The documentation ends here.

Requested Service(s)

Electrical stimulation (97032), ultrasound (97035), electrodes (A4556), manual therapy (97140-59), therapeutic exercises (97110), and chiropractic manipulation (98943), for dates of service 4/6/04 to 7/30/04.

Decision

I agree with the treating doctor that the dates of service from 4/6/04 through 5/14/04 were medically necessary. I also agree with the treating doctor and disagree with the insurance carrier that therapeutic exercises (97110) and manual therapy (97140) as well as extremity manipulation (98943) dated from 5/17/04 through 7/30/04 were medically necessary.

I agree with the insurance carrier and disagree with the treating physician that the remainder of the services dated between 5/17/04 and 7/30/04 were not medically necessary.

Rationale/Basis for Decision

According to the supplied documentation the claimant has a compensable injury to her right shoulder. The surgery was pre-authorized and performed on 3/8/04. After release from her treating surgeon, postoperative therapy is considered reasonable, medically necessary to reduce the claimant's symptoms. In the initial 6 weeks following the onset of therapy, passive therapies as well as active therapies are seen as reasonable and necessary to reduce the claimant's pain and help restore the normal range of motion in the claimant's shoulder. After the initial 6 weeks or approximately 5/14/04 it would be necessary to transition the claimant to full active range of motion therapy protocols and remove the passive modalities. Also seen as reasonable and medically necessary is that the claimant continues a home exercise program to help minimize the claimant's symptoms, while further helping the rehabilitation process of the claimant's injuries. Continuation of the active therapies through 7/30/04 is seen as reasonable and medically necessary to help reduce the claimant's symptoms. After review of **Rehabilitation For The Post Surgical Orthopedic Patient** (pages 51-64) by Maxey & Magnusson, therapy rendered appears inline with current post surgical rehabilitation. Maxey & Magnusson report therapy can last up to 26 weeks post surgery but can be minimized to an aggressive home exercise program.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 4th day of April 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder