MDR Tracking Number: M5-05-1742-01

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 2-22-05.

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.

CPT code 98940 on 5-29-04, 6-5-04, 6-6-04, 6-13-04, 6-17-04, 7-17-04, 7-18-04, 7-21-04, 7-28-04, 7-29-04, 7-31-04, 8-4-04, 8-5-04, 8-11-04 and CPT code 99455-V4-WP on 9-11-04 **were found** to be medically necessary. All other requested services from 5-29-04 through 9-8-04 **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 $983.90.

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 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 $983.90 from 5-29-04 through 9-11-04 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 Decision and Order is hereby issued this day of 18th day of April 2005.

Medical Dispute Resolution Officer
Medical Review Division
Enclosure: IRO Decision

Specialty Independent Review Organization, Inc.

Amended Report of 4/15/05

April 12, 2005

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

Patient:
TWCC #:
MDR Tracking #: M5-05-1742-01
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

Mr. ___ was injured at work on ___ while moving multiple boxes around a reportedly confined room in the course and scope of his employment with . The patient's exact description of the injury is as follows "I was stacking a bulk shipment of packages in a confined space. I had to raise 45-pound boxes over and behind me without being able to pivot my feet. As I lifted the package over my head something popped in my lower back." He reported for care with Luther Bratcher, DC on or about 2/2/04. An initial examination revealed positive orthopedic findings in the lumbar spine, hyper-reflexia of the lower extremities (no spinal level indicated; i.e. patellar achilles, etc), reduced ROM and reduced strength (3/5). The notes are handwritten and are slightly difficult to read at some points. Manipulation and passive therapeutics (ultrasound, diathermy and claser) were performed. There are notes indicating that McKenzie's protocols were utilized for the lumbar spine. The illegible portion of the notes indicates that a 'claser' used. I assume this is a cold laser. The injured worker was seen by RW Rogers, DO for medicinal management on multiple dates. Dr. Rogers recommended continued chiropractic treatment, return to work (with restrictions) and continued medications. The IW was placed at MMI on 9/11/04 with a 0% IR.

DISPUTED SERVICES

Disputed services include the following as per the TWCC notification of IRO assignment and the TWCC 60's table of disputed services: 98940, G0283, 97035, 97024 and 99455 from 5/29/04 through 9/11/04.

RECORDS REVIEWED

Records were reviewed from both the requestor and the respondent. Records from the respondent include the following: 5/28/04 and 8/24/04 Chiropractic Modality Reviews by Thomas Sato, DC, handwritten chart of treatment progress (undated), reconsideration letter of 8/3/04 by Dr. Bratcher, daily notes from 9/8/04, IR report of 9/11/04, 8/3/04 letter by Dr. Bratcher.

Records from the requestor include some of the above in addition to the following records: 3/16/05 letter from Dr. Bratcher, 6/17/04-8/26/04 notes by RW Rodgers, DO, rebuttal to peer review report by Dr. Rogers, 10/18/04 reconsideration letter by Dr. Bratcher, 6/2/04 letter by Dr. Bratcher, intake paperwork of2/2/04,examination notes of 2/2/04, daily notes from 2/7/04 through 9/8/04, medication notes (handwritten) by Dr. Rogers, 5/20/04 initial evaluation by Dr. Rogers.

DECISION

The reviewer disagrees with the previous adverse determination regarding: code **98940** on the following dates; (5/29/04, 6/5/04, 6/6/04, 6/13/04, 6/17/04, 7/17/04, 7/18/04, 7/21/04, 7/28/04, 7/29/04, 7/31/04, 8/4/048/5/04, 8/11/04) and code **99455-V4** on 9/11/04.

The reviewer agrees with the previous adverse determination regarding all remaining services.

BASIS FOR THE DECISION

The reviewer indicates that the impairment rating of 9/11/04 was medically necessary as it is an integral portion of TWCC rule. It was apparently assigned by a provider who is MMI/IR certified by TWCC. The chiropractic manipulations were approved, as they were a portion of a program, which was helping the IW to retain/maintain gainful employment. This was done because he continued to sustain exacerbations during his job. The reviewer notes that passive therapies were not approved as they were outside of the normal course of treatment for a patient at this stage of injury and treatment phase as the injury was over four months old at this point.
Physiotherapy and Rehabilitation Guidelines by the Council of Chiropractic Physiological Therapeutics and Rehabilitation

Gunnar, B.J., T.L. Andersson, and A.M. Davis. "A Comparison of Osteopathic Spinal Manipulation with Standard Care for Patients with Low Back Pain." New England Journal of Medicine 341 19 (1999): 1426-1431.

Kisner, Carolyn, and Lynn Allen Colby. "The Spine: Treatment of Acute Problems." Therapeutic Exercise: Foundations and Techniques, 2nd ed. Philadelphia: F.A. Davis Company, 1990. 473-500.

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