

MDR Tracking #M5-05-1904-01

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 3-8-05.

In accordance with Rule 133.308 (e)(1) the following date(s) of service are not timely and are not eligible for this review: 11-3-03 through 2-2-04.

The IRO reviewed office visits (CPT codes 99212, 99213 and 99214), electrical stimulation, manual therapy technique, therapeutic exercises, neuromuscular re-education and durable medical equipment that were denied for medical necessity from 3-8-04 through 5-5-04.

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.

The office visits (CPT codes 99212, 99213), electrical stimulation from 3-8-04 through 3-22-04, therapeutic exercises (2 units for each date of service) from 3-8-04 through 4-5-04 that were denied for medical necessity **were found** to be medically necessary. The office visits (CPT code 99214), electrical stimulation after 3-22-04, manual therapy technique, therapeutic exercises after 4-5-04, neuromuscular re-education and durable medical equipment that were denied for medical necessity from 3-8-04 through 5-5-04 **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 \$1,262.56.

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 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 5-3-05 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.

The carrier denied CPT Code 99080-73 4-12-04 on with a U for unnecessary medical treatment, however, the TWCC-73 is a required report and is not subject to an IRO review per Rule 129.5. A referral will be made to Compliance and Practices for this violation of Rule 129.5. The Medical Review Division has jurisdiction in this matter and, therefore, recommends reimbursement. Requestor submitted relevant information to support delivery of service. **Recommend reimbursement of \$15.00.**

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 \$1,262.56 from 3-8-04 through 5-3-04 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 16th day of June, 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision

June 9, 2005

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-05-1904-01
TWCC#: _____
Injured Employee: _____
DOI: _____
SS#: _____
IRO Certificate No.: IRO 5055

Dear ____:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic, and is currently on the TWCC Approved Doctor List.

Sincerely,

Gilbert Prud'homme
General Counsel

GP:thh

REVIEWER'S REPORT
M5-05-1904-01

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

Position statement

MRI reports during the period of 02/19/03 thru 12/06/03

FCE reports 05/01/03 & 01/14/04

Impairment evaluation 05/06/04

Orthopedic reports 11/19/03 – 04/04/04

Various medical reports during the period of 0____ thru 04/12/04

Work hardening/conditioning documentation 05/29/03 – 07/25/03

S.O.A.P. notes 02/27/03 – 11/26/03

Clinical History:

This female patient is a 53-year-old who, on ____, was injured in a work-related accident. She struck her right shoulder, and twisted her thoracic spine, lumbar spine and ribs. She was initially seen by the company doctor who evaluated her and then released her to return to work; but, the patient stated that she was unable to perform her job duties. Then, on 2/19/03, she presented to a doctor of chiropractic for physical therapy, rehabilitation and chiropractic care. She eventually participated in a work hardening program, and even received injections to the right shoulder, followed by post-injection physical therapy and rehabilitation. Despite these conservative measures, the patient underwent arthroscopic repair of her right shoulder on 2/3/04, followed by post-operative physical therapy and rehabilitation. She was then determined MMI on 5/6/04 with a 12% whole-person impairment by a doctor of chiropractic on referral from the treating doctor.

Disputed Services:

Office visits, electrical stimulation, manual therapy technique, therapeutic exercises, neuromuscular re-education, durable medical equipment during the period of 03/08/04 through 05/05/04.

Decision:

The reviewer partially agrees with the determination of the insurance carrier as follows:

Medically Necessary:

Established office visits, levels II & III (99212 & 99213)

Therapeutic exercises (97110) 2 units for each date of service during the period up to and including 04/05/04 (4 weeks total),

Electrical stimulation-attended (97032) up to and including 03/22/04 (2 weeks total).

Not Medically Necessary:

Electrical stimulation-attended (97032) after 03/22/04

Therapeutic exercises after 04/05/04

Any therapeutic exercise in excess of 2 units

Rationale:

The medical records adequately documented that a compensable injury occurred to the patient's lumbar spine and right shoulder. In addition, the records indicated that the patient underwent arthroscopic repair of her right shoulder on 2/3/04. Therefore, a clinical trial of post-operative therapy and rehabilitation – to include periodic reassessments (99212 & 99213), short term utilization of acute care modalities (97032), and supervised therapeutic exercises (97110) – would have been appropriate so, these procedures and services were medically necessary and supported.

However, It is the position of the Texas Chiropractic Association¹ that it is beneficial to proceed to the rehabilitation phase as rapidly as possible, and to minimize dependency upon passive forms of treatment/care since studies have shown a clear relationship between prolonged restricted activity and the risk of failure in returning to pre-injury status. The TCA Guidelines also state that repeated use of acute care measures alone generally fosters chronicity, physician dependence and over-utilization and the repeated use of passive treatment/care tends to promote physician dependence and chronicity. Therefore, absent any documented flare-ups or extenuating circumstances to the contrary, the use of attended electrical stimulation after 2 weeks time was unsupported as medically necessary.

In terms of the therapeutic exercises in excess of 2 units, the documentation in this case only supported the medical necessity for post-surgical rehabilitation to the patient's right shoulder. This is due to the fact that the records failed to demonstrate material objective functional improvement to the lower back after not only more than a year of therapeutic exercises, but also a completed work hardening program. Therefore, only 2 units would have been necessary for post-operative rehabilitation to the patient's right shoulder. In addition, the records failed to establish why continued one-on-one, supervised therapeutic exercises were still required *at all* after 4 weeks, particularly since current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises."² Besides, the patient had already been performing right shoulder exercises for over a year, so with documentation devoid of an explanation why supervision, one-on-one therapy was still required, she should have been able to safely perform these exercises at home by 4/5/04.

¹ Quality Assurance Guidelines, Texas Chiropractic Association.

² 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.

Insofar as the established patient office visit, level IV (99214) performed on 4/12/04 was concerned, nothing in either the medical records or the diagnosis in this case supported the medical necessity for performing such a high level of Evaluation and Management (E/M) service on that date, at that time. (In fact, upon careful review of the documentation, there were no differences in what was recorded/documented on that date of service compared to 3/8/04, when a level III office visit was performed/reported.)

In reference to the manual therapy techniques (97140), it is unclear precisely what was performed under the umbrella of services represented by this code. According to CPT³, this service might represent manual traction, joint mobilization, myofascial release, or a number of other services. Therefore, it is incumbent upon the provider to specify which specific service was performed when this code is reported. Since the records were devoid of any mention of the particular service that was provided on any of the various dates of service that 97140 appeared, its medical necessity cannot be determined.

And finally, with regard to the neuromuscular reeducation services (97112), there was nothing in either the diagnosis or the physical examination findings on this patient that demonstrated the type of neuropathology that would necessitate the application of this service. According to a Medicare Medical Policy Bulletin⁴, "This therapeutic procedure is provided to improve balance, coordination, kinesthetic sense, posture, motor skill, and proprioception. Neuromuscular reeducation may be reasonable and necessary for impairments which affect the body's neuromuscular system (e.g., poor static or dynamic sitting/standing balance, loss of gross and fine motor coordination, hypo/hypertonicity). The documentation in the medical records must clearly identify the need for these treatments." In this case, the documentation failed to fulfill these requirements – in fact, both upper and lower extremity electrodiagnostic testing on this patient was essentially negative – rendering the performance of this service medically unnecessary.

And finally, in terms of the durable medical equipment (E1399), nothing in the treating doctor's narrative reports and/or the daily patient records discussed or even mentioned what this was. Therefore, absent any documentation regarding what it was – or, the rationale for dispensing it – its medical necessity was unsupported.

³ *CPT 2004: Physician's Current Procedural Terminology, Fourth Edition, Revised.* (American Medical Association, Chicago, IL 1999),

⁴ HGSA Medicare Medical Policy Bulletin, Physical Therapy Rehabilitation Services, original policy effective date 04/01/1993 (Y-1B)