

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, 133.307 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. This dispute was received on 02-16-05.

The IRO reviewed chiropractic manipulation, DME, neuromuscular stimulator, therapeutic exercises, supplies, manual therapy, office visits, neuromuscular re-education and gait training rendered from 02-16-04 through 06-04-04 that were denied based upon "V".

The IRO determined that the chiropractic manipulation, DME, neuromuscular stimulator, therapeutic exercises, supplies for all dates of service denied for medical necessity and one unit of manual therapy (for traction) per date of service denied for medical necessity **were** medically necessary. The IRO further determined that the office visits, neuromuscular re-education, gait training and all units in excess of one per date of service for manual therapy (for myofascial release) **were not** medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the **majority** of 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. The amount of reimbursement due from the carrier for the medical necessity issues equals **\$5,951.38**.

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 was not the only issue** 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 04-26-05, 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.

Review of CPT codes 98940, 97140, 97112, 97110, 99070, 99215, 97116 and 97530 as well as HCPCS codes E1399 and E0745 for dates of service 03-26-04 through 05-07-04 revealed that neither party submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

CPT code 97112 (12 DOS) dates of service 05-10-04, 05-12-04, 05-14-04, 05-17-04, 05-19-04, 05-21-04, 05-24-04, 05-26-04, 05-28-04, 06-01-04, 06-02-04 and 06-04-04 denied with denial code "G" (unbundling). Per Ingenix.Encoder. Pro code 97112 is not a bundled code. Reimbursement per Rule 134.202(c)(1) is recommended in the amount of **\$427.92 (\$28.53 X 125% = \$35.66 X 12 DOS)**.

CPT code 97116 (11 DOS) dates of service 05-10-04, 05-12-04, 05-14-04, 05-19-04, 05-21-04, 05-24-04, 05-26-04, 05-28-04, 06-01-04, 06-02-04 and 06-04-04 denied with denial code "G" (unbundling). Per Ingenix.Encoder.Pro code 97116 is global to code 97530. No reimbursement is recommended.

CPT code 97530 (12 DOS)(72 units) dates of service dates of service 05-10-04, 05-12-04, 05-14-04, 05-17-04, 05-19-04, 05-21-04, 05-24-04, 05-26-04, 05-28-04, 06-01-04, 06-02-04 and 06-04-04 denied with denial code "G" (unbundling). Per Ingenix.Encoder.Pro code 97530 is global to code 97140. No reimbursement is recommended.

This Findings and Decision is hereby issued this 10th day of June 2005.

Medical Dispute Resolution Officer
Medical Review Division

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees totaling \$6,379.30 for dates of service 02-16-04 through 06-04-04 in accordance with the Medicare program reimbursement methodologies effective 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 10th day of June 2005.

Manager Medical Necessity Team
Medical Review Division

Enclosure: IRO Decision

Original review date: May 27, 2005
Amended review date: June 6, 2005
Re-amended review date: June 8, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M5-05-1925-01
CLIENT TRACKING NUMBER: M5-05-1925-01 5278

RE-AMENDED REVIEW

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIOA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the case in question 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. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIOA for independent review.

Records Received:

Records from state:

- TWCC Notification of IRO Assignment 4/26/05 - 1 page
- Letter to MRIOA from TWCC 4/26/05 - 1 page
- Medical Dispute Resolution Request/Response - 1 page
- List of treating providers - 1 page
- Table of Disputed Services 2/16/04-6/4/04 - 29 pages
- TWCC-62 Explanation of Benefits - 16 pages

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Records from requestor (George Kris Wilson, DC):

- Letter to Dr. Wilson from TWCC 4/26/05 - 1 page
- Letter to TWCC from Dr. Wilson 5/4/05 - 6 pages
- EMG/NCS report 2/15/02 - 3 pages
- Lumbar Discogram-Three Levels/Post-Discogram Lumbar CT report 6/17/02 - 2 pages
- Operative report 8/5/02 - 2 pages
- CT Scan-Lumbar Spine 5/20/03 - 2 pages
- Lumbar Myelogram with Post-Myelographic CT Scan 6/12/03 - 3 pages
- Postoperative note 10/9/03 - 3 pages
- Letter to Royal and Sunalliance from Dr. Wilson 2/16/04, 3/12/04, 4/9/04, 5/7/04, 6/4/04 - 28 pages
- Office notes 2/16/04-6/4/04 - 156 pages

Summary of Treatment/Case History:

This claimant underwent physical medicine treatments, 2 lumbar surgeries and post-surgical rehabilitation after sustaining injury in a motor vehicle accident on ____.

Questions for Review:

1. Were the #99215-office visits, #98940-chiropractic manipulation, #E1399-DME, #E0745-neuromuscular stimulator, #97140-manual therapy, #97112-neuromuscular reeducation, #97116-gait training, #97110-therapeutic exercises, #99070-supplies, from 02/16/04 through 06/04/04 medically necessary to treat this patient's injury?

Explanation of Findings:

Physical medicine is an accepted part of a rehabilitation program following surgery. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. With documentation of improvement in the patient's condition and restoration of function, continued treatment may be reasonable and necessary to effect additional gains.

In this case, there is adequate documentation of objective and functional improvement in this patient's condition. Specifically, the patient's pain decreased and her spinal ranges of motion increased to near normal. Without question, the medical records substantiate that a portion of disputed services fulfilled statutory requirements (1) for medical necessity since the patient obtained relief, promotion of recovery was accomplished and there was an enhancement of the employee's ability to return to employment.

However, the medical necessity for a portion of the treatments and procedures was without support.

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In regard to the #99215 office visits and per CPT (2), the medical necessity of performing comprehensive systems re-examinations was not supported.

In 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 Bulletin (3), "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, rendering the performance of this service medically unnecessary.

In regard to gait training (#97116), the medical records failed to establish any gait abnormalities that would warrant the performance of this service. Therefore, its medical necessity is unsupported.

In regard to myofascial release (#97140-manual therapy) and per CPT (4), that procedure is a component of and included in the chiropractic manipulation service (#98940) when performed to the same area and on the same date.

Conclusion:

Decision to Certify:

All #98940-chiropractic manipulation; all #E1399-DME; all #E0745-neuromuscular stimulator; all #97110-therapeutic exercises; all #99070-supplies; and only one unit of #97140-manual therapy (for traction) on 02/16/04, 02/17/04, 02/18/04, 02/19/04, 02/20/04, 02/23/04, 02/25/04, 02/27/04, 03/01/04, 03/03/04, 03/08/04, 03/10/04, 03/12/04, 03/15/04, 03/17/04, 03/19/04, 03/22/04, 03/24/04, 05/21/04, 05/26/04, 05/28/04, 06/01/04, 06/04/04 are medically necessary.

Decision to Not Certify:

All #99215-office visits; all #97112-neuromuscular reeducation; all #97116-gait training; and all remaining units of #97140-manual therapy (for myofascial release) are not medically necessary.

References Used in Support of Decision:

1. Texas Labor Code 408.021
2. *CPT 2004: Physician's Current Procedural Terminology, Fourth Edition, Revised.* (American Medical Association, Chicago, IL 1999)
3. HGSA Medicare Medical Policy Bulletin, Physical Therapy Rehabilitation Services, original policy effective date 04/01/1993 (Y-1B)
4. *CPT 2004: Physician's Current Procedural Terminology, Fourth Edition, Revised.* (American Medical Association, Chicago, IL 1999),

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This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has written numerous publications and given several presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty-five years.

MRIOA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

It is the policy of Medical Review Institute of America to keep the names of its reviewing physicians confidential. Accordingly, the identity of the reviewing physician will only be released as required by state or federal regulations. If release of the review to a third party, including an insured and/or provider, is necessary, all applicable state and federal regulations must be followed.

Medical Review Institute of America retains qualified independent physician reviewers and clinical advisors who perform peer case reviews as requested by MRIOA clients. These physician reviewers and clinical advisors are independent contractors who are credentialed in accordance with their particular specialties, the standards of the American Accreditation Health Care Commission (URAC), and/or other state and federal regulatory requirements.

The written opinions provided by MRIOA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRIOA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRIOA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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