

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 3-18-05.

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.

The IRO reviewed E-0745-neuromuscular stimulator, 99213, 99212-office visits, 97140-manual therapy technique, G0283-electrical stimulation, 97035-ultrasound, 98940-chiropractic manipulative treatment, A4209-syringe with needle and S0020-injection from 3-19-04 through 11-30-04 which were denied by the carrier for medical necessity.

CPT code 97140 on 4-21-04, CPT code GO283 on 4-21-04, CPT code 97035 on 4-21-04, CPT code 98940 on 8-3-04, 8-5-04, 8-9-04 and 8-11-04; CPT code 99213 on 3-24-04, CPT code 99212 on 10-28-04, HCPCS code A4209 on 8-31-04 and HCPCS code S0020 on 8-31-04, 9-7-04 and 9-30-04 **were found** to be medically necessary. The remaining services **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 \$386.49.

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 4-14-05 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.

Regarding CPT code 97140-59 on 3-26-04, 4-1-04, 4-8-04, 4-9-04 and 4-13-04 denied by the Insurance Carrier as "O – this modality is a duplication of treatment when performed to same area as MP. Per document cervical area was treated." (The remainder of the CPT code 97140-59 services denied as "O" were denied as "exceeds treatment guidelines" in addition to the previous denial.) Per Ingenix Encoder Pro, "Manual Therapy Technique can be global to the Chiropractic Manipulative Treatment which was billed on the same day. A modifier is allowed in

order to differentiate between the services provided. Separate payment for the services billed may be considered justifiable if a modifier is used appropriately.” The requestor used the -59 modifier to highlight a “distinct procedural service.” The requestor supported the use of the -59 modifier in the Medical Notes. **Recommend reimbursement of \$158.65 (31.73 X 5 DOS).**

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 \$545.14 from 3-19-04 through 10-28-04 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 8th day of June, 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision



Specialty Independent Review Organization, Inc.

Amended 6-1-2005

May 2, 2005

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

Patient: ____
TWCC #: ____
MDR Tracking #: M5-05-2006-01
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 Doctor of Osteopathy with a specialty in Orthopedics. 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

This 49 year old male was injured on _____. He was involved in an on the job accident while working as a fire/EMS dispatcher. Patient notes that he works a 24 hour shift and then has two 24 hour shifts off. On his examination of 03/19/2004 the patient reports that in the last week they started using a new ergonomic chair at dispatch. They were advised to take the old chairs and replace them with the new. Patient states that he worked one shift prior with the new chair and was uncomfortable. He noted the top headrest of the chair is adjustable only top to bottom and cannot be adjusted fore and aft. This fixed head rest moves and tilts the head forward and holds it in that position of a semi-flexed state of the neck. Patient noted significant pain increase within 5 hours.

The physical examination on 03/19/2004 revealed tenderness in the cervical muscles and upper thoracic. Multiple trigger points and spasm are noted along the vertebral edge of the left scapula including the rhomboids, serratus posterior superior, as well as the trapezius. Cervical compression tests were unremarkable. Palpating the trigger point of the trapezius produced a radicular type pain in the left arm.

The initial examination diagnosis was reported as chronic cervical/thoracic strain. This patient received an excessive amount of therapy from 03/19/2004 through 11/03/2004. On the progress note of 11/15/2004 the patient's strength is 5/5, range of motion of the shoulder is unremarkable, grip strength is equal, and the patient describes the pain as decreasing in the cervical spine.

Records Reviewed:

Medical Dispute Resolution request/response.

Records from Carrier:

Harris & Harris – Letter, 4/21/05.

Records from Doctors/Facility:

Neuromuscular Institute of Texas – Letters: 3/19/04 through 4/18/05.

38 Visits. . . . Therapy Reports: 3/22/04 through 3/22/05

TWCC Work Status Report: 3/19/04, 5/19/04, 10/25/04, 12/16/04.

San Antonio Diagnostic Imaging: 3/24/04 X-Ray Thoracic Spine and
Cervical Spine, both reports normal.

TWCC Hearing Division: 11/10/04.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of E0745, 99213 OV, 97140 manual therapy technique, G0283 electrical stimulation, 97035 ultrasound, 98940 chiropractic manipulative treatment, A4209 syringe with needle (sterile), S0020 injection (bupivacaine HCl, 30 ml) and 99212 OV from 3-19-2004 through 11-3-2004.

DECISION

The reviewer disagrees with the previous adverse determination regarding 97140 on 4/21; G0283 on 4/21; 97035 on 4/21; 98940 on 8/03, 8/05, 8/09, 8/11; 99213 on 3/24; 99212 on 10/28; A4209 on 8/31 and S0020 on 8/31, 9/07, 9/30.

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

BASIS FOR THE DECISION

Initial Care (Chapter 8, Neck)

Comfort is often a patient's first concern. Nonprescription analgesics will provide sufficient pain relief for most patients with acute and subacute symptoms. If treatment response is inadequate (i.e., if symptoms and activity limitations continue), prescribed pharmaceuticals or physical methods can be added. Comorbid conditions, side effects, cost, and provider and patient preferences generally guide the clinician's choice of recommendations. Table 8-5 summarizes comfort options.

Manipulation has been compared to various treatments, but not placebo or nontreatment, for patients with neck pain in nearly twenty randomized clinical trials. More than half favored manipulation with one reporting better results in combination with exercise, while the remainder indicated treatments were equivocal. Cervical manipulation has not yet been studied in workers' compensation populations. In rare instances (estimated at 1.0-1.5 per million manipulations), manipulation has been associated with cerebrovascular accident. Some studies suggest that this risk is based on the position of the patient, not the act of manipulation itself. Serious side effects

are extremely rare and far less frequent than those associated with commonly prescribed alternatives such as nonsteroidal anti-inflammatory drugs (NSAIDs), but the issue is currently under study and should be monitored. Using cervical manipulation may be an option for patients with occupationally related neck pain or cervicogenic headache. Consistent with application of any passive manual approach in injury care, it is reasonable to incorporate it within the context of functional restoration rather than for pain control alone. There is insufficient evidence to support manipulation of patients with cervical radiculopathy.

There is no high-grade scientific evidence to support the effectiveness or ineffectiveness of passive physical modalities such as traction, heat/cold applications, massage, diathermy, cutaneous laser treatment, ultrasound, transcutaneous electrical neurostimulation (TENS) units, and biofeedback. These palliative tools may be used on a trial basis but should be monitored closely. Emphasis should focus on functional restoration and return of patients to activities of normal daily living. There is limited evidence that electromagnetic therapy may be effective to reduce pain in mechanical neck disorders. If used, there should be a trial period with objective signs of functional progress.

Invasive techniques (e.g., needle acupuncture and injection procedures, such as injection of trigger points, facet joints², or corticosteroids, lidocaine, or opioids in the epidural space) have no proven benefit in treating acute neck and upper back symptoms. However, many pain physicians believe that diagnostic and/or therapeutic injections may help patients presenting in the transitional phase between acute and chronic pain.

This decision is consistent with: The American College of Occupational and Environmental Medicine (ACOEM) Occupational Medical Practice Guidelines, Second Edition. Chapter 8 (Neck), p 173-175

Physical Methods (Chapter 3, Treatment)

During the acute to subacute phases for a period of 2 weeks or less, physicians can use passive modalities such as application of heat and cold for temporary amelioration of symptoms and to facilitate mobilization and graded exercise. They are most effective when the patient uses them at home several times a day. Although not for long-term use, transcutaneous galvanic and electrical stimulation can keep symptoms at bay temporarily, diminishing pain long enough so that patients begin to mobilize. Little evidence exists for the effectiveness of other passive modalities.

This decision is consistent with: The American College of Occupational and Environmental Medicine (ACOEM) Occupational Medical Practice Guidelines, Second Edition. Chapter 3, (Treatment), p. 48-49.

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