

MDR Tracking Number: M5-05-2033-01

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 3-21-05.

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 manual therapy technique, electrical stimulation, therapeutic activities, chiropractic manipulation, therapeutic exercises, massage and office visits that were denied with "V" codes from 5-10-04 through 11-17-04.

The therapeutic activities and office visits from 5-10-04 through 7-5-04 **were found** to be medically necessary. The manual therapy technique, electrical stimulation, therapeutic exercises, chiropractic manipulation and massage **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 \$606.21.

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 4-12-05 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 97035 on 8-4-04: Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of \$14.70.**

Regarding CPT code 99213 on 10-12-04: Per Rule 133.307 (e)(2)(A) a copy of all medical bills as originally submitted to the carrier for reconsideration in accordance with 133.304 must be submitted to the Commission. **Recommend no reimbursement.**

Per Rule 134.202(d), reimbursement shall be the least of the (1) MAR amount as established by this rule or, (2) the health care provider's usual and customary charge

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 \$620.91 for 5-14-04 through 9-10-04 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 6th day of May 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision



Specialty Independent Review Organization, Inc.

May 4, 2005

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

Patient:
TWCC #:
MDR Tracking #: M5-05-2033-01
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

This patient was injured on the job when he was unloading some boxes and batteries for automobiles fell on his right shoulder, causing injury to the right shoulder. He continued to work during that day but had difficulty lifting his right arm. Records indicate that he attempted to continue his work for the next day, but the pain became more intense and he notified his employer of the injury. He had a continued swelling in the arm and the inability to lift the shoulder, but in spite of the pain he continued to attempt to work through the pain. Records indicate that he was referred to Rebecca Salazar, DC from an advertisement and he began treatment in January of 2004. MRI of the right shoulder indicated that he had a tear of the distal fibers of the supraspinatus tendon as well as subacromial bursitis and AC joint arthropathy which

is associated with an impingement syndrome. He underwent very extensive physical medicine treatment and eventually had a surgical procedure for the repair of a tear of the rotator cuff on May 8, 2004. He began rehabilitation shortly after that point and continued care until November of 2004, at which time he began a work hardening program for 6 weeks. He was found to be at MMI with 4% impairment by a designated doctor Ken Ford, MD.

Records Reviewed:

Requestor's and Carrier's Position statement, Report of Gregory Goldsmith, MD, physical medicine notes, SOAP notes beginning May 10, 2004, treatment guidelines and research on a rotator cuff repair, FCE of 2/3/2004, FCE 3/23/2004, FCE 5/14/2004, TWCC website notes from the Texas Labor Code, progress notes from Rachel Salazar, DC, numerous physical examination and orthopedic findings, narrative reports of Rachel Salazar, DC, TWCC 73 forms, operative report of 5/8/2004, Nerve Conduction Velocity, Gallagher Bassett review forms for concurrent care, orthopedic notes of Jorge Tijmes, MD, right shoulder MRI, Hospital notes.

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of 97140 manual ther tech, 97032 electrical stimulation, 97530 therapeutic activities, 98943 chiropractic manipulation, 97110 therapeutic exercises, 97124 massage and office visits from 5-10-04 through 11-17-04.

DECISION

The reviewer disagrees with the previous adverse determination regarding therapeutic activities and 10 office visits from May 10, 2004 through July 5, 2004.

The reviewer agrees with the previous adverse determination regarding other care under dispute in this case.

BASIS FOR THE DECISION

The guidelines which were referenced in this case, including the TCA Guidelines to Quality Assurance as well as the Mercy Guidelines, do not indicate that passive therapy for such an extended period of time would be reasonable in a case such as this. It is clear that the patient did indeed have an injury, but the most appropriate method of addressing his injury was through active care. Under no circumstance could passive therapy and ongoing active therapy benefit this patient given the office notes and extended therapy rendered in this case. Work hardening was approved by the carrier in November of 2004. There is no indication in any of the documentation that there was a contraindication to his entry into a work hardening program for 6 weeks and then returning to a productive workplace immediately afterward. The reviewer finds only office visits, not to exceed a total of 10 and active therapy in the form of therapeutic exercise was reasonable.

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