

MDR Tracking #M5-05-2056-01

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 3-23-05.

In accordance with Rule 133.308 (e)(1), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The following date(s) of service are not timely and are not eligible for this review: 3-16-04 through 3-22-04.

CPT code 97150-GP on 3-23-04, 3-24-04, 3-30-04 and 3-31-04 were withdrawn by the requestor and will not be a part of this dispute.

CPT code 99213-75 on 3-24-04 was withdrawn by the requestor and will not be a part of this dispute.

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 97530-GP, 97150-GP, 99213, E0745-NU, 97110-GP, 97039-PT, G0238-GP, 97002-GP, 97010, 95900-WP, 95903-WP, 95904-WP, 95861-WP, 93741, 95831, 99242, 97140 and 97750-GP which were denied for medical necessity from 3-25-04 through 10-07-04.

CPT codes 97530-GP, 99213, 97110-GP, 97039-PT, G0238-GP, 97002-GP, 97010, 95900-WP, 95903-WP, 95904-WP, 95861-WP, 95831, 97140 and 97750-GP **were found** to be medically necessary. CPT codes E0745-NU, 97150-GP, 93741 and 99242 **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 \$2,563.32.

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 4-25-05 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.

CPT code 97530-GP on 3-23-04 and 3-31-04 was denied by the carrier as "E – Entitlement to benefits." Per a BRC on 9-14-04 the injury of \_\_\_\_\_ is compensable. CPT code 97530 is considered by Medicare to be a mutually exclusive procedure of CPT code 97150. 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. GP is not an appropriate modifier. **Recommend no reimbursement.**

CPT code 97530-GP on 3-24-04 and 3-26-04, 3-29-04, 3-30-04 was denied by the carrier as "G – this code is a mutually exclusive code." CPT code 97530 is considered by Medicare to be a mutually exclusive procedure of CPT code 97150. 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. GP is not an appropriate modifier. **Recommend no reimbursement.**

PT code 97530-GP on 4-1-04 was denied by the carrier as "E – Entitlement to benefits." Per a BRC on 9-14-04 the injury of \_\_\_\_\_ is compensable. CPT code 97530 is considered by Medicare to be a mutually exclusive procedure of CPT code 97150. 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. GP is not an appropriate modifier. **Recommend no reimbursement.**

PT code 97150-GP on 3-26-04 (2 units) and 3-29-04 (4 units) was denied by the carrier as "F – Fee guideline MAR reduction, reimbursement has been calculated according to state fee schedule guidelines." Per the requestor, no payment was made. **Recommend reimbursement of \$135.60 (22.60 X 6 units).**

PT code 99213-75 on 3-26-04 was denied by the carrier as "F – Fee guideline MAR reduction, reimbursement has been calculated according to state fee schedule guidelines." Per the requestor, no payment was made. **Recommend reimbursement of \$68.24.**

Regarding CPT code 99213-75 on 4-5-04 and 9-20-04: 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 \$136.48 (\$68.24 X 2 DOS).**

Regarding CPT code 97002-GP on 8-9-04: 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 \$50.59.**

Regarding CPT code 97750-GP on 8-9-04 (16 units): 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 \$592.80 (\$37.05 X 16 units).**

Regarding CPT code 97530-GP-59 on 8-24-04 (5 units), 8-25-04 (5 units), 8-26-04 (5 units), 8-27-04 (5 units), 9-8-04 (5 units): 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 \$939.50 (\$37.58 X 25 units).**

Regarding CPT code 97110-GP on 4-15-04, 8-24-04, 8-25-04, 8-26-04, 8-27-04, 9-8-04: 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). Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. **Recommend no reimbursement.**

PT code 97530-GP on 4-15-04 (5 units) was denied by the carrier as "E – Entitlement to benefits." Per a BRC on 9-14-04 the injury of \_\_\_\_\_ is compensable. **Recommend reimbursement of \$187.90 (37.58 x 5 units).**

CPT code 99213-75 on 8-24-04 was denied by the carrier as "E – Entitlement to benefits." Per a BRC on 9-14-04 the injury of \_\_\_\_\_ is compensable. **Recommend reimbursement of \$68.24.**

This Finding and Decision is hereby issued this 15<sup>th</sup> day of June.

Medical Dispute Resolution Officer  
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 \$4,742.67 from 3-25-04 through 9-20-04 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 Order is hereby issued this 15<sup>th</sup> day of June, 2005.

Manager, Medical Necessity Team  
Medical Dispute Resolution  
Medical Review Division

Enclosure: IRO decision



Specialty Independent Review Organization, Inc.

May 23, 2005

Amended 5/27/05

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

Patient: \_\_\_\_\_  
TWCC #:  
MDR Tracking #: M5-05-2056-01  
IRO #:

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 on \_\_\_ while working for \_\_\_\_\_. The records indicate he was injured while lifting a box causing lower back pain. He began treatment on 3/15/04 with John Parker, DC. The case was disputed by the carrier until a 9/14/04 CCH was held and found in the favor of the injured worker. He was placed on restricted duty as of 8/11/04. Mr. \_\_\_ was placed at clinical MMI on 11/8/04 with a 0% IR by his treating doctor. A peer review was performed by Roger Canard, DC. He indicates no care is necessary after four weeks. The patient was diagnosed with a lumbar radiculitis by the TD superimposed over a lumbar sprain/strain and a spasm of the lumbar spine. The neurodiagnostic testing indicates no presence of lumbar radiculitis. He was put through passive and active therapies including medical treating during the treatment between March and November 2005.

#### RECORDS REVIEWED

Records were received from the treating doctor/requestor and from the carrier. Records from the treating doctor/requestor include the following: CCH report 9/14/04, various TWCC 21's, E1, various TWCC 73's, TWCC 69 of 11/8/04, Progressive rehabilitation notes from 3/16/04 through 10/08/04, PPE of (3/19/04, 8/9/04, 9/30/04), PT eval of (3/19/04, 8/19/04, 9/30/04), electrodiagnostic studies of 8/17/04, 10/14/04 record review by R. Canard DC, 11/4/04 peer review rebuttal, 3/15/05 note by Dr. Parker, SOAP/Daily notes from 3/15/04 through 10/7/04 by Dr. Parker, D. Gray PT, notes/evaluations by Andrew Small, MD and medical case management/review of records notes by Dr Parker from 3/19/04 through 10/5/04.

Records from the carrier include some of the above, in addition to the following: 4/6/04 letter from V. Peterson, 5/6/05 letter from Steve Tipton, 4/13/05 letter from James Sheffield, III, NMES letter from Palmetto GBA, copies of internet site at CMS of NMES, 21 pages of PT payment policies by CMS, PT volume 81 study of Philadelphia panel evidence based clinical practice guidelines on selected rehabilitation interventions for low back pain, journal article out of Neurologic Clinics Volume 20, No. 2, May 2002 Electrodiagnostic approach to the patient with suspected radiculopathy and SOAP/Daily notes from 3/15/04 through 10/8/04 by Dr. Parker, D. Gray PT.

#### DISPUTED SERVICES

Disputed services include 97530-GP, 97150-GP, 99213-OV, E0745-NU, 97110-GP, 97039-PT, G0238-GP, 97002-GP, 97010, 95900-WP, 95903-WP, 95904-WP, 95861-WP, 93741, 95831,

99242, 97140 and 97750-GP from 3/25/04 through 10/07/04. The TWCC 60's table of disputed services from TWCC is incorrect as it states the services are to be reviewed through 4/5/05.

### DECISION

The reviewer agrees with the previous adverse determination regarding E0745, 97150, 93741, 99242 and all services beyond 8/11/04.

The reviewer disagrees with the previous adverse determination regarding all remaining services. Beyond 8/11/05 the reviewer disagrees with the previous adverse determination regarding code 99213 on 8/17/04, 9/8/04.

### BASIS FOR THE DECISION

The records submitted indicate that the patient continued to improve through 8/11/04. The patient is returned to work at this point in time; therefore, this care meets the standards established by TLC 408.021. Secondly, the care is per the Council of Chiropractic Physiological Therapeutics and Rehabilitation Guidelines to Rehabilitation. It is unclear as per the records that the patient required treatment beyond 8/11/04. Passive therapies aren't necessary at this stage of treatment. The reviewer indicates that he disagrees with the peer reviewer, R.Canard DC, in the fact that R. Canard DC did not believe care was necessary beyond four weeks. There was no documentation enclosed that described the usage of the 93741 and 99242 on 8/17/04.

### References

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