

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER: 453-05-6882.M5

MDR Tracking Number: M5-05-2139-01

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, 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 03-24-05.

Per Rule 133.308(e)(1) dates of service 03-03-04 through 03-16-04 were not timely filed and will not be part of the review.

CPT code 97780 billed on dates of service 06-08-04 and 06-22-04 is invalid for Medicare and will not be part of the review.

The IRO reviewed office visits, therapeutic exercises and unlisted special service rendered from 03-27-04 through 06-22-04 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were the only fees involved in the medical dispute to be resolved. As the services listed above were not found to be medically necessary, reimbursement for dates of service from 03-27-04 to 06-22-04 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Findings and Decision is hereby issued this 12<sup>th</sup> day of May 2005.

Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO decision

May 10, 2005

TEXAS WORKERS COMP. COMMISSION  
AUSTIN, TX 78744-1609

CLAIMANT: \_\_\_

EMPLOYEE: \_\_\_

POLICY: M5-05-2139-01

CLIENT TRACKING NUMBER: M5-05-2139-01 5278

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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 Received from the State:

Notification of IRO assignment dated 4/27/05, 11 pages

Reevaluations for dates of service 3/27/04 through 6/22/04, 21 pages

Explanation of benefits for date of service 6/21/04, 1 page

Records Received from Dr. Cashion:

Retrospective review (M5) information request from MRIOA dated 4/28/05, 1 page

Letter from Dr. Cashion dated 11/16/04, 4 pages

Daily patient progress notes (SOAP) dated 3/3/04 through 4/29/04, 42 pages

Daily office notes dated 5/4/04 through 3/22/05, 31 pages

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MD prescriptions dated 2/13/04 and 5/7/04, 5 pages  
Letter from Dr. Cashion dated 6/21/04, 3 pages  
Texas Workers' Compensation work status report, undated, 1 page  
Letter from Texas Workers' Compensation Commission dated 11/14/03, 1 page  
Office notes dated 12/18/03 through 5/7/04, 5 pages  
Letter from Dr. Cashion dated 3/11/04, 1 page  
Letter from Dr. Cashion dated 2/5/04, 1 page  
Texas Workers' Compensation work status reports, dated 1/15/04 and 2/13/04, 2 pages total  
Electromyography report dated 1/20/04, 1 page  
Strength and muscular endurance progress chart dated 1/29/04 through 6/22/04, 2 pages  
MD review dated 10/13/04, 2 pages  
Release and transfer of records form 9/14/04, 1 page

Records Received from Arkansas Claims Management:

Letter from Arkansas Claims Management dated 5/6/05, 1 page  
Independent review organization summary dated 10/24/03, 2 pages  
MD reviews dated 4/13/04 through 2/25/05, 24 pages  
Employers' first report of injury or illness, undated, 1 page  
Office notes dated 10/24/03 and 1/15/04, 5 pages  
Texas Workers' Compensation work status reports dated 10/24/03 through 1/15/04, 7 pages  
MRI report dated 10/24/03, 1 page  
CarePlus Medical Center report dated 10/24/03, 1 page  
Orders report dated 10/28/03 and 10/29/03, 2 pages  
Patient controlled analgesia and epidural form dated 10/28/03, 1 page  
Order sheet dated 10/28/03, 1 page  
Anesthesia postoperative orders dated 10/28/03, 1 page  
Preoperative orders dated 10/27/03, 1 page  
Interdisciplinary patient notes dated 10/28/03 and 10/29/03, 2 pages  
Progress notes dated 10/28/03, 1 page  
Medical history dated 10/24/03, 1 page  
Discharge summary dated 10/28/03, 1 page  
ECG report dated 10/28/03, 1 page  
Graphic sheet dated 10/28/03 and 10/29/03, 1 page  
Patient monitoring form dated 10/28/03, 1 page  
Discharge instruction sheet dated 10/29/04, 1 page  
Intraoperative record dated 10/28/03, 1 page  
Operative report dated 10/28/03, 2 pages  
Anesthesia report dated 10/28/03, 1 page  
Worker's Compensation narrative report dated 1/20/04, 3 pages  
Electromyography report dated 1/20/04, 1 page  
Letter from Dr. Cashion dated 2/5/04, 1 page  
Office reports dated 2/13/04 through 7/27/04, 7 pages  
Texas Workers' Compensation work status reports dated 2/13/04 through 6/18/04, 4 pages  
TWCC-69 Report of medical evaluation dated 2/27/04, 1 page  
Letter from Dr. Cashion dated 9/15/04, 5 pages

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SOAP notes/daily patient records dated 12/22/03 through 2/26/04, 49 pages

Daily office notes dated 5/4/04 and 6/2/04, 3 pages

**Summary of Treatment/Case History:**

The patient, a 65-year-old male, injured his right shoulder when he struck it against an object on \_\_\_\_\_. The patient underwent an orthopedic examination on 10/24/03. He complained of shoulder pain secondary to falling off a ladder due to an electrical shock, and he complained of difficulty elevating the arm; there was clunking in the shoulder with abduction. The MRI study revealed a fracture of the anterior glenoid consistent with a Bankart-type lesion, and there was an abnormal signal in the insertion of the rotator cuff consistent with a tear. He underwent arthroscopic repair of the right shoulder due to right shoulder dislocation, glenoid fracture, and rotator cuff tear on 10/28/03, and the postoperative report indicated the patient had a small glenoid fragment knocked off with a good portion of the labrum, which was reattached with a small screw. The patient's pain was minimal as of 11/7/03 and he had nearly full passive ranges of motion by 11/20/03.

The patient was referred to Jarrod Cashion, DC for physical therapy treatment on 12/18/03 and he was returned to work on light duty. The patient was treated by the chiropractor on the following dates with modalities and therapeutic exercises according to records reviewed:

Dec 03: 22, 23, 26, 29, 30

Jan 04: 2, 6, 8, 10, 13, 15, 17, 20, 22, 24, 29, 31

Feb 04: 2, 7, 10, 12, 14, 17, 19, 26

Mar 04: 3, 4, 6, 9, 11, 14, 16, 18, 23, 25, 27, 30

Apr 04: 1, 6, 8, 13, 15, 19, 21, 27, 29

May 04: 4, 6, 11, 15, 18, 21, 31

Jun 04: 2, 8, 15, 22, 29

Jul 04: 6, 13, 20

The 1/15/04 report from the orthopedist indicated that the patient was doing well regarding his rotator cuff function, but his biceps muscle was nearly completely absent. The patient was referred to a neurologist for electrodiagnostic evaluation.

The patient underwent electrodiagnostic evaluation of the right upper extremity with Randall Light, MD on 1/20/04 due to weakness of the right biceps muscle and that was noticed shortly after surgery. The EMG evaluation revealed severe acute denervation of the right C5 to C7 distribution that was limited to the right biceps muscle. He was diagnosed with an isolated right musculocutaneous nerve injury with severe biceps denervation.

The 2/13/04 report from the orthopedist indicated that the patient's elbow flexion strength was improving and forward flexion was to 90 degrees and non-painful. He indicated the musculocutaneous nerve was coming back. The patient was re-examined by the orthopedist on 3/26/04, and he demonstrated increased elbow strength and shoulder strength.

The 5/7/04 report from the orthopedist indicated that the patient complained of significant discomfort and biceps function was improving. The report indicated the patient needed continued passive

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stretching and strengthening of the right shoulder, and he was also given a prescription for acupuncture.

The 6/18/04 report from Dr. Richardson (orthopedist) indicated that the patient was doing better with regard to his rotator cuff strength and his biceps strength.

The patient was re-examined by the neurologist on 7/20/04 and he reported that he observed visible contractions in the biceps muscle in the past month. Shoulder ranges of motion were reduced and biceps strength was 3/5. The remainder of the upper extremity muscles demonstrated normal strength. He was diagnosed with isolated right musculocutaneous nerve injury with improvement and status post right shoulder surgery.

The patient underwent an impairment rating evaluation with Dr. Richardson on 7/27/04, and he was certified at MMI with 14% permanent impairment as of 7/27/04.

**Questions for Review:**

The dates of service in dispute are 3/27/04 to 6/22/04. The items in dispute include #97110 (therapeutic exercises, office visits) and #99199 (unlisted special service). Denied by carrier for medical necessity with "V" codes.

**Explanation of Findings:**

The therapeutic exercises billed from 3/27/04 to 6/22/04 were not medically necessary. A review of the 127 pages of progress notes submitted for review that encompassed dates of service from 12/22/04 to 6/20/04 revealed no measures of objective improvement over the course of his treatment. The patient's self-reported pain scores did not reduce over the course of his treatment. The records revealed that the patient received 35 office visits with the chiropractor prior to 3/27/04. The records dated 2/17/04 indicated that the patient was already placed on a home exercise program, and references to home exercises were noted on 1/13/04 and on 12/23/03.

The medical records also revealed that the patient sustained an isolated nerve injury to the musculocutaneous nerve and he was slowly regaining function of the nerve with time. The addition of outpatient rehabilitation exercises from 3/27/04 through 6/22/04 did not affect outcome in this case, as the patient was already placed on a home exercise program and was well-acquainted with the simple biceps curl exercises he needed to perform in order to regain biceps function. The sustained use of outpatient therapeutic exercises for treatment of biceps weakness secondary to a nerve injury was not medically necessary, as the rate-limiting factor in the recovery of the patient was the speed at which the nerve was recovering its internal function following the nerve injury, not the amount of exercises directed at the biceps muscle.

MedRisk data related to the number of physical therapy visits necessary for the management of elbow/shoulder related disorders indicates that patients with acute shoulder/elbow problems require no more than 20-32 visits over a period of 10-15 weeks (Expert Clinical Benchmarks: Upper extremity - shoulder and elbow, King of Prussia, PA, MedRisk, Inc. 2004). The patient in this case received 35 visits over a period of 13 weeks from 12/22/03 to 3/27/04.

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The Milliman Care Guidelines for Ambulatory Care, 8th Edition, indicates that 4–6 visits of physical therapy and rehabilitation in conjunction with a home program are usually adequate for treatment of a shoulder problems following arthroscopic surgery.

The code #99199 (unlisted special service, report, or procedure) was not medically necessary, as the code was used to bill for the doctor's billing appeals letter on 6/21/04 and was not used for patient-related or treatment-related services, reports, or procedures.

**Conclusion/Decision to Not Certify:**

The code 99199 (unlisted special service, report, or procedure) was not medically necessary

The therapeutic exercises (#97110) billed from 3/27/04 to 6/22/04 were not medically necessary.

**Applicable Clinical of Scientific Criteria or Guidelines Applied in Arriving at Decision:**

Milliman Care Guidelines for Ambulatory Care, 8th Edition

**References Used in Support of Decision:**

Expert Clinical Benchmarks: Upper extremity – shoulder and elbow, King of Prussia, PA, MedRisk, Inc. 2004

CPT Code Book

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This review was provided by a Doctor of Chiropractic who is also a member of the American Chiropractic Academy of Neurology. This reviewer also holds a certification in Acupuncture. This reviewer has fulfilled both academic and clinical appointments and currently serves as an assistant professor at a state college, is in private practice and is a director of chiropractic services. This reviewer has previously served as a director, dean, instructor, assistant professor, and teaching assistant at a state college and was responsible for course studies consisting of pediatric and geriatric diagnosis, palpation, adjusting, physical therapy, case management, and chiropractic principles. This reviewer is responsible for multiple postgraduate seminars on various topics relating to chiropractics and has authored numerous publications. This reviewer has participated in numerous related professional activities including work groups, committees, consulting, national healthcare advisory committees, seminars, National Chiropractic Coalition, media appearances, and industrial consulting. This reviewer has been in practice since 1986.

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.

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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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