

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 4-6-05.

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 CPT codes 99212, 98940, 97110, 97012, 97112, 97150, 99213, 97124, 99080, 97116, 98941 and 97032 from 4-6-04 through 11-10-04 that were denied for medical necessity.

CPT code 99212 on 4-6-04, 4-19-04, 5-17-04, 6-4-04, 7-6-04, 8-6-04, 8-24-04, and CPT code 99213 on 5-3-04, 10-15-04 and 11-10-04 and CPT code 99080 **were found** to be medically necessary. The remaining dates of service for 99212 and 99213, 98940, 97110, 97012, 97112, 97150, 97124, 99080, 97116, 98941 and 97032 **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 \$557.00.

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 4-29-05 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.

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. The health care provider billed a lesser amount than the MAR, therefore reimbursement will be the amount billed.

Regarding CPT code 99212 on 7-9-04 and 7-12-04: Neither the carrier nor the requestor provided timely 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 \$92.82.**

Regarding CPT code 98940-25 on 7-9-04, 7-12-04 and 7-21-04: Neither the carrier nor the requestor provided timely 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 \$98.52.**

Regarding CPT code 97110 on 7-21-04: Neither the carrier nor the requestor provided timely 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. **Reimbursement not recommended.**

Regarding CPT code 97124 on 7-21-04: Neither the carrier nor the requestor provided timely 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 \$28.14.**

Regarding CPT code 97112 on 7-21-04: Neither the carrier nor the requestor provided timely 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 \$36.69.**

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 \$813.17 from 4-6-04 through 11-10-04 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 31st day of May, 2005

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision



Specialty Independent Review Organization, Inc.

Amended Report 5/27/05

May 18, 2005

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

Patient: ____
TWCC #:
MDR Tracking #: M5-05-2183-01
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

___ was injured on ___ when she was walking to read a meter. She slipped and fell backwards on concrete. Ms. ___ measures 5'4" and weighs 200 lbs according to the records. Ms. ___ treated with S. Al-Sahli, DC. She was treated with passive therapies, active therapies, ESI's, MUA's, and pain management treatments. Multiple re-evaluations were documented from NBC Healthcare. Neurodiagnostic testing of 1/21/03 indicates a bilateral sural nerve neuropathy and left L5 nerve root irritation. Neurodiagnostic testing indicated no neural compression or radiculopathy in 2004. A designated doctor performed at least two examinations. The first examination indicated the patient not to be at MMI while the second examination placed the examinee at statutory MMI on 10/14/04. Multiple peer reviews were performed by Roger Canard, DC. In one of his reports, Dr. Canard apparently steps outside of his scope of practice by indicating that a nerve block and a discogram are not medically warranted. It is the reviewer's opinion that this cannot be determined by a Doctor of Chiropractic.

RECORDS REVIEWED

Records were received from both the requestor/treating doctor and the respondent. Records from the requestor/treating doctor include the following: 5/2/05 letter, follow up examinations of (1/29/04, 3/25/04, 5/10/04, 7/9/04, 10/12/04), notes by Rezik Saqer, MD from 01/28/04 through 12/10/04, notes by Masroor Ahmed, MD from 3/3/04, notes from Ian Reynolds, MD from 11/24/03, Lumbar MRI with and without contrast from 12/22/03, 1/21/03 neurodiagnostic test, 1/28/03 exam by Richard Westmark, MD, MUA notes from 07/18/03 through 7/25/03 and DD reports of 6/8/04 and 11/23/04.

Records from the carrier included some of the above in addition to the following: 7/14/03 letter by Jenny Drinkwater, TWCC decision of M5-03-2477-01, TWCC decision of M5-04-1621-01, Medical review by Roger Canard, DC (11/7/03, 03/08/04, 08/04/04, 2/03/05, RME of 6/24/04, RME of 4/30/03 with FCE, DD exam of 7/10/03, 11/2/04 report by Brian Buck, MD, lumbar plain film report of 11/22/02, lumbar MRI of 11/22/02, variously dated TWCC 73's, Urgent care notes by UT Medical Branch Hospital Galveston, various TWCC 21's, NBC daily notes from 11/4/02 through 01/21/05, letter of 6/5/03 by Dr. Al-Sahli, Nassau Bay Rehab exercise sheets and productivity index from 10/27/03 through 10/28/03, work hardening psychotherapy group notes of 10/29/03, initial eval by M. Ahmed, MD, notes by Dr. Ahmed from 11/22/02 through 12/19/03, operative report of 3/13/03, notes by Dr. Saqer from 1/28/04 through 1/21/05, new patient eval by Guy Fogel, MD, 4/11/03 note by Dr. Westmark, psych referral of 6/26/03, 6/10/03 note by Nassau Bay Rehab, FCE of 6/3/03, 4/28/03 & 8/12/03 clinical interviews by San Meltzer, PhD and 2/27/03 operative report.

DISPUTED SERVICES

Disputed services include 99212, 98940, 97110, 97012, 97112, 97150, 99213, 97124, 99080, 97116, 98941 and 97032 from 4/6/04 through 11/10/04.

DECISION

The reviewer disagrees with the previous adverse determination regarding the following codes on the following dates: 99212 (4/6/04, 4/19/04, 5/17/04, 6/4/04, 7/6/04, 8/6/04, 8/24/04), 99213 (05/03/04, 10/15/04, 11/10/04) & 99080.

The reviewer agrees with the previous adverse determination regarding all other services under review.

BASIS FOR THE DECISION

The reviewer indicates that the treatments in question are taking place approximately 18 months post injury. The types of treatments at this point cannot be medically justified by the documentation, which is submitted for review. Treatments such as mechanical traction, massage, every visit manipulation, therapeutic exercises, gait training, etc are generally used in the acute, sub acute or early chronic phases. This is not the case in this situation. As per the enclosed re-examinations. The patient's functionality (ROM and strength) did not improve from the 1/29/04 exam through the 10/12/04 examinations. The pain scales did not improve during this time period. The patient was not returned to work or was not able to retain employment at any level during the period under review. Therefore, the care does not qualify for care under TLC 408.021.

The reviewer bases the above opinion on the Texas Labor Code, Mercy Guidelines, ACOEM Guidelines and the Council of Physiological Therapeutics and Rehabilitation Guidelines. This review is based upon the documentation as presented from all the above-mentioned parties.

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