MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) HCP ( ) IE ( ) IC	**Response Timely Filed?** (X) Yes ( ) No
Requestor's Name and Address James Tanner, D. C. 5350 S. Staples, Ste 210 Corpus Christi, TX 78411	MDR Tracking No.: M5-05-2417-01 TWCC No.: Injured Employee's Name:
Respondent's Name and Address , Box 29	Date of Injury: Employer's Name: Insurance Carrier's No.:

PART II: SUMMARY OF DISPUTE AND FINDINGS

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	**To**		
8-2-04	**9-1-04**	**CPT code 97110 (all dates of service) and CPT code 98940 on 8-16-04, 8-23-04 and 8-30-04**	☒ **Yes** ☐ **No**
8-2-04	**9-1-04**	**CPT code 98940 (all other dates of service), G0283, 97012, 97140**	☐ **Yes** ☒ **No**
			☐ **Yes** ☐ **No**

PART III: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The Division has reviewed the enclosed IRO decision and determined that the requestor **prevailed** on the disputed medical necessity issues. The total due the requestor for the medical necessity issues is $886.63.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** 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 6-13-05 the Medical Review Division submitted a Notice to 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 98940 on 8-2-04, 8-4-04, 8-6-04, 8-9-04, 8-11-04 and 8-13-04 was denied by the carrier as "F – fee guideline MAR reduction. However, the carrier made no payment or gave a valid reason for not doing so. Reimbursement per Rule 134.202 (c)(1) is $188.10 ($31.35 X 6 DOS).

CPT code G0283 on 8-2-04, 8-4-04, 8-6-04, 8-9-04, 8-11-04 and 8-13-04 was denied by the carrier as "F – fee guideline MAR reduction. However, the carrier made no payment or gave a valid reason for not doing so. Reimbursement per Rule 134.202 (c)(1) is $80.46 ($13.41 X 6 DOS).

CPT code 97012 on 8-2-04, 8-4-04, 8-6-04, 8-9-04 and 8-11-04 was denied by the carrier as "F – fee guideline MAR reduction. However, the carrier made no payment or gave a valid reason for not doing so. Reimbursement per Rule 134.202 (c)(1) is $89.55 ($17.91 X 5 DOS).

PART IV: COMMISSION DECISION AND ORDER

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is entitled to a refund of the paid IRO fee in the amount of $460.00. The Division hereby **ORDERS** the insurance carrier to remit the amount of $1,244.74 from 8-2-04 through 9-1-04, plus all accrued interest due at the time of payment to the Requestor within 20-days of receipt of this Order.

Ordered by:

		7-6-05
Authorized Signature	Typed Name	Date of Order

PART V: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision in the Austin Representative's box.

Signature of Insurance Carrier: _____ Date: _____

PART VI: YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the Decision and has a right to request a hearing. A request for a hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk within 20 (twenty) days of your receipt of this decision (28 Texas Administrative Code § 148.3). This Decision was mailed to the health care provider and placed in the Austin Representatives box on _____. This Decision is deemed received by you five days after it was mailed and the first working day after the date the Decision was placed in the Austin Representative's box (28 Texas Administrative Code § 102.5(d)). A request for a hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas, 78744 or faxed to (512) 804-4011. A copy of this Decision should be attached to the request.

The party appealing the Division's Decision shall deliver a copy of their written request for a hearing to the opposing party involved in the dispute.

Si prefiere hablar con una persona in español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

Specialty Independent Review Organization, Inc.

Amended report of 6/30/05

June 28, 2005

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

Patient: ___
TWCC #: ___
MDR Tracking #: M5-05-2417-01
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 ___ while employed with the . The records indicate that he was injured when he was helping to lift a lawn mower into the back of a city truck. The records indicate he is 5'5" and weighs 178 lbs. He has complicating factors of obesity, diabetes, congestive heart failure and severe hypertension. He underwent an MRI, which indicated L4/5 herniation with mild/moderate central canal stenosis, and mild impingement of the L5 left nerve root and L5/S1 bulge with bony bar yielding a left sided impingement of the left S1 nerve root. Dr. Tanner performed an examination on 5/28/04 when he received the word that the TWCC 53 had been approved. He notes that Concentra underestimated the severity of injury. The exam by John Borkowski indicates the pain scale is a 9/10 on 8/9/04. The 8/23/04 exam by Dr. Edwards indicates that ESI's are the next step; however, he will not proceed until the patient gets his hypertension and diabetes under medical control. From 8/6/04 through 9/1/04, the patient's pain scale is a 4/10 according to Dr. Tanner. The note of 3/16/05 indicates that the patient has not got the diabetes and hypertension under control. There is no indication that the ESI's were ever performed. The patient has been at work (modified duty) since he began to see Dr. Tanner.

RECORDS REVIEWED

Records were received from the treating doctor/requestor and from the respondent. Records from the respondent include the following: 6/22/05 letter from Renee Keeney, copy of MR 117 and 8/18/04 note by H. Bryan Lee, DC. Records from the requestor

include the following: lumbar MRI of 3/25/04, 8/9/04 initial evaluation by John Borkowski, MD, 08/23/04, 10/18/04 notes by Thomas Edwards, MD, request for recon letter dated 2/4/05, 10/27/04 through 3/16/05 notes by James Tanner, DC, hand written note of 09/10/04 through 10/8/04, patient progress records from 8/13/04 through 9/1/04, daily pt notes 5/28/04 through 8/13/04, progress reports of 5/28/04, 7/5/04, 8/6/04 and 11/9/04, TWCC 73's 5/5/04 through 11/9/04 and 11/17/04 DD report by Thomas Leondard, MD. H. Bryan Lee, DC performed a peer review for the carrier.

DISPUTED SERVICES

Disputed services include 97110, G0283, 97012, 97140 and 98940 from 8/16/04 through 09/01/04.

DECISION

The reviewer disagrees with the previous adverse determination regarding code 97110 (all dates under review) and 98940 (8/16/04, 8/23/04, 8/30/04).

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

BASIS FOR THE DECISION

The reviewer indicates that the patient underwent care consisting of passive and active therapies. He began active therapies on approximately 5/28/04. The records do not indicate that passive therapies were medically necessary during the time of review. His pain scales consistently dropped until 8/4/04 when they became stuck at 4/10. However, it is reasonable for the treating doctor to continue for up to four weeks with pain scales at a standstill. It is easy to look at records nearly a year later and say that care should have stopped on a specific date. However, the treating doctors' notes indicate that he had tried various ways to modify the treatment to obtain the desired goal, yet the patient's comorbid conditions were apparently blocking further improvement. The MDA by Presley Reed, MD states "If there is little or no improvement after 4-6 weeks of treatment, further evaluation is necessary. Persisting pain may be due to a persisting herniation not being resorbed by the body. If this pain cannot be managed conservatively by muscle strengthening, good body mechanics, and/or bracing, it is an indication for surgery (discectomy)." The normative data by the MDA for a lumbar disc syndrome indicates that for a heavy PDL up to 91 days of medical treatment may be required based solely upon a diagnosis of 722.10. Complicating factors and comorbid conditions may increase the length of time required.

REFERENCES:

MDA by Presley Reed, MD

Liebenson, C Rehabilitation of the Spine, A Practitioner's Manual, Williams and Wilkins, 1996.

Brotzman S, Wilk K Clinical Orthopaedic Rehabilitation, Second Edition, Mosby, 2003.

ACOEM Guidelines

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