# MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

## Retrospective Medical Necessity Dispute

**PART I: GENERAL INFORMATION**

| | |
|---|---|
| **Type of Requestor:** (X) HCP ( ) IE ( ) IC | **Response Timely Filed?** ( ) Yes ( X ) No |
| Requestor's Name and Address<br><br>**Reavis Rehab**<br>**1208-Q N IH35**<br>**Round Rock, TX 78681** | MDR Tracking No.: M5-05-2492-01<br>TWCC No.:<br>Injured Employee's Name: |
| Respondent's Name and Address<br><br>**American Home Assurance Company, Box 19** | Date of Injury:<br>Employer's Name:<br>Insurance Carrier's No.: |

**PART II: SUMMARY OF DISPUTE AND FINDINGS – Medical Necessity Issues**

| Dates of Service | | CPT Code(s) or Description | Did Requestor Prevail? |
|---|---|---|---|
| **From** | **To** | | |
| **6-16-04** | **6-16-04** | **CPT code 97001** | ☒ **Yes** ☐ **No** |
| **7-20-04** | **8-13-04** | **CPT code 97113** | ☒ **Yes** ☐ **No** |
| **6-16-04** | **8-13-04** | **CPT code 97110, 97530, 97140 97035, 97002** | ☐ **Yes** ☒ **No** |
| **6-21-04** | **7-16-04** | **CPT code 97113** | ☐ **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 did **not** prevail on the majority of the disputed medical necessity issues. The total reimbursement due the requestor for the medical necessity issues is $1,450.78.

**PART IV: COMMISSION DECISION**

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is not entitled to reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee. The total reimbursement due the requestor for the medical necessity issues is $1,450.78. The Division hereby **ORDERS** the insurance carrier to remit the appropriate amount for the services in dispute consistent with the applicable fee guidelines, plus all accrued interest due at the time of payment, to the Requestor within 20-days of receipt of this Order.

**Findings and Decision by:**

| | | 8-2-05 |
|---|---|---|
| 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

If you are unhappy with all or part of this decision, you have the right to appeal the decision. Those who wish to appeal decisions that were issued during the month of August 2005, should be aware of changes to the appeals process which take effect September 1, 2005.

House Bill 7, recently enacted by the 79th Texas Legislature, provides that an appeal of a medical dispute resolution order that is not pending for a hearing at the State Office of Administrative Hearings (SOAH) on or before August 31, 2005 is not entitled to a SOAH hearing. This means that the usual 20-day window to appeal to SOAH, found in Commission Rule 148.3, will be shortened for some parties during this transition phase. If you wish to seek an appeal of this medical dispute resolution order to SOAH, you are encouraged to have your request for a hearing to the Commission as early as possible to allow sufficient time for the Commission to submit your request to SOAH for docketing. A request for a SOAH 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.

Beginning September 1, 2005, appeals of medical dispute resolution orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable.

**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 07/29/2005

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

Patient: ___
TWCC #:___
MDR Tracking #: M5-05-2492-01
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

Ms. ___ was injured on ___ while working for when she bent over to pick up some paper. She immediately felt pain in her lumbar spine, which made her strike her head on a cabinet and fall to the floor. Initial records from the years 2000, 2001 and 2002 are very sparse from the records submitted by the parties. On 10/17/02 a lumbar MRI indicates L4/5 protrusion and L4/5 and L5/S1 facet DJD. A peer review by PRI indicates no more than 12 visits are medically necessary from 4/4/03 through 5/14/03. On 7/14/03, Marty Hall, DC indicates that all further chiropractic care is not necessary due to lack of improvement, but recommends further diagnostic tests. On 8/28/03 a cervical MRI was performed indicating spondylytic changes to C4/5, C5/6 and C6/7 also noted was a right moderate foraminal stenosis at C6. A lumbar MRI was performed on 11/4/03 indicating a L4/5 annular tear and L5/S1 facet arthropathy. Jack Seaquist, MD recommended a knee scope on 9/15/03. Scott Spann, MD suggests a cervical discogram and possible surgical intervention on 10/7/03. The note by Dr. Haro on 9/26/03 indicates the patient's pain scale rates a 3/10 while the 9/9 note indicates a pain scale of "greater than 10/10". On 10/8/03 Uma Guillapalli, MD, designated doctor, notes that the patient is not at MMI. 10/10/03 an RME was performed by Ronald Devere, MD. On 12/4/03 Dr. Guillapalli indicates the patient has reached statutory MMI with a 15% IR. On 2/24/04 a lumbar discogram was performed indicating L4/5 reproduced pain at a 9/10 level. The requestor performed presurgical rehabilitation from 6/16/04 through 8/13/04. On 8/24/04 an AP fusion was performed at L4/5 with hardware.

## RECORDS REVIEWED

Records were received from the requestor and the treating doctor. Records were received from the respondent as the reviewer was preparing the final report. Nevertheless, these records were reviewed prior to the decision being provided. All parties were informed

of the dispute via fax. Records from the treating doctor include the following: daily progress notes from Kapsner Chiropractic from 3/5/03 through 08/11/04, TWCC 73's from 10/27/02 through 04/28/04, TWCC 53 of 10/17/02, 10/3/03 letter by Dr. Schiffer, initial med report by Dr. Schiffer, 5/5/03 subsequent medical report, lumbar MRI 11/4/03, 8/29/03 cervical MRI, 10/7/03-03/10/05 notes by Dr. Spann, 9/15/03 through 06/10/05 (11/10/03surgical) reports by Jack Seaquist, MD, office visits by Daniel Thompson, MD from 10/14/03 through 1/20/04, 09/26/03 through 9/26/03 notes by J Haro, MD, 6/24/03 through 8/14/03 notes by Joe Powell, MD1010/03 MRE by Ronald DeVere, MD, 10/8/03 DD report, 12/4/03 DD report, 7/14/03 peer review report by Marty Hall, DC, 5/14/03 modality review by George Sage, DC, 9/22/03 letter by Dr. Schiffer, internal variant of TWCC 73 dated 9/25/03, 10/17/02 lumbar MRI, 04/12/01 through 7/7/03 notes by Robert Joyner, MD, 2/22/01cervical MRI, 10/10/00 through 09/13/01 handwritten notes by Mark Smith, MD, 10/14/00 pain treatment center history and PE questionnaire, 3/5/03 cervical and lumbar spine exam sheet, 8/30/03 handwritten note by unknown party, 2/19/04 subsequent report, 11/4/03 lumbar MRI, SMAART PC Evaluation sedentary report, 2/24/04 operative report (discogram), 2/1904 progress re-evaluation, 6/17/04 through 8/11/04 reports by Reavis Rehab, 2/24/04 post discogram CT scan of lumbar spine and 3/16/04 letter by ___.

The requestor forwarded the following records: 9/9/04 reconsideration letter, 9/1/04 recon letter, rehab daily notes from 06/17/04 through 8/11/04, 6/16/04 therapy evaluation form, referral form of 6/16/04, referral form of 6/11/04 by Dr. Malone, therapy notes 06/16/04 through 8/13/04, gym flowsheet from 6/21/04 through 8/6/04, pool flowsheet from 06/21 through 8/13/04.

The respondent submitted some of the above records in addition to the following: 1/16/04 peer review by Samuel Milton, MD, 8/31/04 peer review by George Sage, DC, 8/24/04 surgical report and occupational therapy notes of October 2004.

## DISPUTED SERVICES

Disputed services include the following services 97001, 97110, 97113, 97530, 97140, 97035 and 97002 from 6/16/04 through 8/13/04.

## DECISION

The reviewer disagrees with the previous adverse determination regarding 97001 (06/16/04) and 97113 (from 7/20/04 through 8/13/04).

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

## BASIS FOR THE DECISION

The reviewer indicates that pre-operative rehabilitation has been shown to reduce post-surgical expense of rehabilitation by reducing the amount of time it takes to rehab the injured body part through increased ROM and strength prior to surgery. The patient's previous attempt at rehab appears to have been at least a year earlier; therefore, by convention she was deconditioned. According to the MDA, "rehabilitation therapy may be used pre-operatively" and "the individual's preoperative level of physical fitness would also influence the length of disability of a lumbar fusion". The records are not clear as to the patient's PDL. It is the reviewer's opinion that eight weeks of pre-operative therapy is too much at this stage of treatment without an FCE to determine the medical necessity of treatment. Therefore, the treatment is approved as noted above.

## REFERENCES

Van Tulder MW et al. Exercise therapy for low back pain. The Cochrane Database of Systematic Reviews, Cochrane Library number. DE000335. In: The Cochrane Library, Issue 2, 2002: Update Software.

Hilde G, Bo K. Effect of exercise in the treatment of chronic low back pain: a systematic review, emphasizing type and dose of exercise. Physical Therapy Reviews 1998;3:107-117.

Reed P Medical Disability Advisor, 3rd Edition, 2003.

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