

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 Gabriel Gutierrez P.O. Box 229 Katy, TX 77492-0229	MDR Tracking No.: M5-05-2642-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address Texas Mutual Insurance Company, Box 54	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: SUMMARY OF DISPUTE AND FINDINGS – MEDICAL NECESSITY ITEMS

	CPT Code(s) or Description	Did Requestor Prevail?
6-25-04, 7-1-04, 8-30-04	CPT code 99211	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6-30-04 through 9-29-04 except for 8-30-04	6 units of CPT code 97110	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
From 6-23-04 through 10-18-04	CPT code 99211 (except for dates listed above), 97032, 97140, 97124, 97010, 99080, 97110 on 8-30-04	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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.

CPT code 97010 (hot/cold pack application) is a bundled service code and considered an integral part of a therapeutic procedure. Therefore, per the 2002 Medical Fee Guideline, no reimbursement is recommended.

The Division has reviewed the enclosed IRO decision and determined that the requestor prevailed on the majority of the disputed medical necessity issues. The amount due the requestor for the medical necessity services is \$3,414.72.

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 7-11-05 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.

In accordance with 134.202(b): for billing, reporting, and reimbursement of professional medial services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies. CPT code 97540 on dates of service 6-23-04 and 6-25-04, 6-30-04 is not a valid CPT code. No reimbursement recommended.

Regarding units of CPT code 97110 which were not denied for medical necessity: 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.

The carrier reimbursed the respondent \$20.04 for CPT code 97032 on 7-1-04, 7-2-04 and 8-16-04. This payment is appropriate per Rule 134.202 (c)(1). No additional reimbursement is recommended.

CPT code 99212 on 6-28-04 was denied as "MU – Physical Medicine and Rehabilitations services may not be reported in conjunction with an evaluation and management code performed on the same day." Per the 2002 Medical Fee Guidelines this CPT code is not global to other services performed on this date. Recommend reimbursement of \$37.04.

The carrier reimbursed the respondent \$33.91 for CPT code 97140-59 on 6-28-04. This payment is appropriate per Rule 134.202 (c)(1). No additional reimbursement is recommended.

CPT code 97140-59 on 7-19-04 was denied as "TK – Rule 133.1 requires the submission of legible supporting documentation." The requestor did not provide documentation to support delivery of services per Rule 133.307(g)(3)(A-F). No reimbursement recommended.

CPT code 99080 on 7-19-04 was denied as "YF – reduced or denied in accordance with the appropriate fee guideline." The carrier made no payment and gave no rationale for not doing so. Recommend reimbursement per Commission Rule 134.202(c)(1) of \$50.00.

CPT code 97032 on 7-19-04 was denied as "TK – Rule 133.1 requires the submission of legible supporting documentation." The requestor did not provide documentation to support delivery of services per Rule 133.307(g)(3)(A-F). No reimbursement recommended.

CPT code 99211 on 7-19-04, 7-23-04, 7-26-04, 7-28-04, 8-2-04, 8-4-04, 8-6-04, 8-9-04, 8-11-04, 8-13-04, 8-20-04 was denied as "TK – Rule 133.1 requires the submission of legible supporting documentation." Or "TG – Documentation does not support the service billed". The requestor did not provide documentation to support delivery of services per Rule 133.307(g)(3)(A-F). No reimbursement recommended.

CPT code 97124 on 8-11-04 and 8-13-04 was denied as "F – reduced or denied in accordance with the appropriate fee guideline." The carrier made no payment and gave no rationale for not doing so. Recommend reimbursement per Commission Rule 134.202(c)(1) of \$56.18 (\$28.09 X 2 DOS).

CPT code 99080-73 on 9-1-04 was denied as "891 – reducing or denying payment after reconsidering a bill." however, the TWCC-73 is a required report per Rule 129.5. The requestor provided documentation to support delivery of services per Rule 133.307(g)(3)(A-F). Recommend reimbursement of \$15.00.

CPT code 99211 on 9-1-04, 9-3-04, 9-8-04, 9-20-04, 9-24-04, 9-27-04, 9-29-04 was denied as "858 - Physical Medicine and Rehabilitations services may not be reported in conjunction with an evaluation and management code performed on the same day." Per the 2002 Medical Fee Guidelines this CPT code is not global to other services performed on this date. Recommend reimbursement of \$189.28 (\$27.04 X 7 DOS).

CPT code 97032 on 9-29-04 was denied as "891 – reducing or denying payment after reconsidering a bill." The carrier made no payment and gave no rationale for not doing so. Recommend reimbursement per Commission Rule 134.202(c)(1) of \$20.04.

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 \$3,782.26, 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:

8-11-05

Ordered by:

8-11-05

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 8/4/05

August 1, 2005

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

Patient: ____
TWCC #: ____
MDR Tracking #: M5-05-2642-01
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

Mr. ____ was injured on ____ while employed with _____ in a motor vehicle accident. The E1 indicates that he ran a red light and was struck by another vehicle. He works as a sanitary technician according to the records. He treated with Memorial Hermann Hospital. He then saw a Dr. Angelo, according to the treating doctor (there are no records to this account). He underwent medicinal treatment and a home exercise program. He was returned to light duty in early May 2004; however, apparently the job would not accept a light duty referral.

He presented to the office of Gabriel Gutierrez on or about 6/11/04 for treatment. No contributing factors were noted in the doctors' notes. He complained of neck pain with radicular symptoms in the left arm, right shoulder pain, left thoracic/rib pain, low back pain and decreased ADL's. He began treatment with passive and active therapies on that date according to the notes and continued these basic treatments through 10/18/04.

The cervical MRI indicates a left foraminal narrowing at C3/4 and central canal stenosis at C5/6. The shoulder MRI indicates tendonosis of a marked nature. The lumbar MRI indicates L3/4 protrusion with annular tearing, L4/5 protrusion/herniation with annular tearing and bilateral foraminal narrowing and central canal stenosis and L5/S1 protrusion which abuts the neural root sleeves at S1 with marked bilateral foraminal narrowing with effacement of the L5 nerve roots bilaterally.

The patient was placed 'not at MMI by Leonard Hershkowitz, MD on 7/8/04. He recommended further physical therapy. The patient was placed at MMI on 10/1/04 by Leonard Hershkowitz, MD with a 10% IR.

Interestingly, the letter by Nurse Giles and Doctor Gutierrez note two very different PDL's required for this gentleman to return to work. Nurse Giles indicates a light-medium PDL while Dr. Gutierrez indicates a heavy PDL. Due to the factor that neither one uses documentation to back up their PDL response it is difficult to determine who is right. However, it is more likely that Mr. _____ would be at least at a medium to medium-heavy PDL if he has to pick up trash bags. If he solely drives the truck, he would likely be at a light-medium PDL. The issue is uncertain.

RECORDS REVIEWED

Records were received from the treating doctor/requestor and from the respondent. Records from the requestor/treating doctor include the following: TAC 134.202, page 20-20-23 &64 of unknown guidelines, 7/13/05 letter by Gabriel Gutierrez, DC, SOAP notes from 06/11/04 through 10/18/04.

Records from the respondent include some of the above in addition to the following: 7/16/05 letter by La Treace Giles, RN, E1, ER records from Memorial Hermann Hospital ER, 6/29/04 FCE, cervical MRI 7/7/04, left shoulder MRI of 7/7/04, lumbar MRI 7/7/04, 7/9/04 electrodiagnostic report, DD report by Leonard Hershkowitz, 7/22/04 consult by William Donovan, MD, 9/7/04 note by Dr. Donovan, 9/22/04 note by Son Nguyen, MD, DD report by Dr. Hershkowitz 10/1/04 (10% IR), 10/8/04 operative report, 10/11/04 letter of clarification from Dr. Gutierrez.

DISPUTED SERVICES

Disputed services include the following: 99211, 97032, 97110, 97140, 97124, 97010 and 99080 from 6/25/04 through 10/18/04.

DECISION

The reviewer disagrees with the previous adverse determination regarding: **99211** (6/25/04, 7/1/04, 8/30/04) and **97110** (six units per date of service on 6/30/04 through 9/29/04).

The reviewer agrees with the previous adverse determination regarding all remaining services not specifically mentioned above in addition to 97110 on the following date (8/30/04).

BASIS FOR THE DECISION

The reviewer indicates that this gentleman had suffered a fairly significant injury to the cervical and lumbar spine secondary to an at fault accident. He had positive objective signs from multiple MRI's and neurodiagnostic testing. It is possible that he was not treated as actively as possible by the initial treating doctor. This likely lead to the chronicity of the condition.

It is the reviewer's opinion that the carrier reviewed this case very close to the reviewer's opinion. The only difference being that the reviewer allows six units of therapeutic exercise per visit secondary to the multitude of injuries that this gentleman suffered. The carrier quoted that 30-45 minutes of therapeutic exercise is necessary. The reviewer disagrees as per the above argument that the gentleman had multiple injuries requiring more than the 30-45 minutes of therapy. This is generally used in the Medicare community, which is not a return to work type of program.

According to the MDA, the heavy PDL qualifies for up to eighty-four days of disability secondary to a neck disc injury. The patient has more injuries than a cervical injury; therefore, the maximum dates can be extended depending on patient response and the medical necessity of treatment.

Medical treatment.

Job Classification	Minimum	Optimum	Maximum
<i>Sedentary</i>	0	7	21
<i>Light</i>	0	14	28
<i>Medium</i>	0	21	42
<i>Heavy</i>	0	49	84
<i>Very Heavy</i>	0	56	90

REFERENCES

Kessler, R.M. Management of Common Musculoskeletal Disorders:Physical Therapy Principles and Methods. Philadelphia : J.B. Lippincott Co, 1990.

Reed, P Medical Disability Advisor, 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