

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 Chiropractic Healthcare 115 W. Wheatland Rd Suite 101 Duncanville, TX 75116	MDR Tracking No.: M5-05-2735-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address American Home Assurance Company, Box 19	Date of Injury:
	Employer's Name:
	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		
5-24-04	8-13-04	CPT codes 97140, 98943, E1399, E0745	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5-24-04	8-13-04	CPT codes 97110, 97032, 97035, 99205, 99215, 97112, 97530	<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.

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 due the Requestor for the medical necessity services is \$3,417.62.

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 a refund of the paid IRO fee. The Division hereby **ORDERS** the insurance carrier to remit the appropriate amount for the services in dispute consistent with the applicable fee guidelines totaling \$3,417.62, 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:

Donna Auby

8-26-05

Ordered by:

Amy Rich

8-26-05

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.

August 15, 2005

TEXAS WORKERS COMP. COMMISSION
AUSTIN, TX 78744-1609

CLAIMANT: ___
EMPLOYEE: ___
POLICY: M5-05-2735-01
CLIENT TRACKING NUMBER: M5-05-2735-01/5278

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 7/25/05, 45 pages

RECORDS RECEIVED FROM PATRICK DAVIS, DC:

Operative report (right cubital tunnel release and ulnar nerve transposition), dated 3/4/04, 2 pages
Treating doctor's examination notes and narratives, dated 5/24/04, 6/18/04, 7/16/04 and 8/13/04, 35 pages
Treating doctor daily notes and therapeutic notes, dated 5/24/04 through 9/03/04, 124 pages
Functional Capacity Evaluation, dated 4/13/04 and 9/2/04, 38 pages
TWCC-69 and impairment rating narrative report, dated 12/21/04, 9 pages

RECORDS RECEIVED FROM THE INSURANCE COMPANY:

Carrier reviews for retrospective medical necessity of care, multiple dates, 14 pages
"Initial Injury Encounter Form," dated 10/29/03, 1 page
Employer's First Report of Injury or Illness, dated ____, 2 pages
TWCC-69 report dated 10/29/03 - 6/30/05, 27 pages
FCE 9/2/04, 30 pages
Physical therapy notes (from initial doctor of chiropractic), dated 11/4/03 through 5/3/04, 38 pages
Radiological reports from thoracic spine and right elbow series, dated 11/7/03, 2 pages
Computerized muscle testing and range of motion report, dated 11/10/03 and 4/13/04, 6 pages
MRI report of right elbow, dated 11/26/03, 1 page
Orthopedic consultation narrative reports, multiple dates, 25 pages
EMG/NCV report, dated 1/21/04, 7 pages
Required medical evaluation report, with an Functional Capacity Evaluation, dated 6/14/04, 9 pages
Surveillance report, dated 6/15/04, 8 pages
Typed office notes from Patrick Davis, DC 5/24/04-9/3/04, 68 pages
Work Conditioning Progress notes 9/20/04-10/6/04, 8 pages

Summary of Treatment/Case History:

Patient is a 38-year-old "laborer/stocker" for a large discount department store chain who, on ____, was descending a ladder when she lost her footing and fell approximately 4-6 feet and landed onto her right upper extremity. She felt immediate pain across her right elbow, forearm, and wrist. She sought and received chiropractic care that included

physical therapies and procedures for several months, yet despite this extensive therapy, on 3/4/04 she underwent surgery on her right elbow. This was followed by approximately 2 more months of post-operative care.

On 5/19/04, she obtained a change of treating doctors and presented herself to a different doctor of chiropractic who initiated chiropractic treatment, as well as supervised active care and other modalities. The patient was eventually deemed at MMI on 12/21/04 with 10% whole-person impairment by the treating doctor.

Questions for Review:

DOS 5/24/04 – 8/13/04:

1. Items in dispute: denied by carrier for medical necessity are manipulative treatment #98943, therapeutic exercises, #97110, electrical stimulation, manual #97032, ultrasound #97035, office visits, #99204/#99215, manual therapy technique #97140, DME #E1399/#E0745 neuromuscular re-education, #97112 and therapeutic activities #97530. Please review for medical necessity.

Explanation of Findings:

DOS 5/24/04 – 8/13/04:

1. Items in dispute: denied by carrier for medical necessity are manipulative treatment #98943, therapeutic exercises, #97110, electrical stimulation, manual #97032, ultrasound #97035, office visits, #99204/#99215, manual therapy technique #97140, DME #E1399/#E0745 neuromuscular re-education, #97112 and therapeutic activities #97530. Please review for medical necessity.

I mostly agree with the determination of the carrier, as follows:

The manual therapy techniques (#97140), the chiropractic manipulative therapies (#98943), and the durable medical equipment (#E1399 and #E0745) are all approved. All remaining treatments and procedures are denied.

Upon careful review of the initial treating doctor of chiropractic's records, neither the manual therapy techniques (#97140) nor the chiropractic manipulative therapies (#98943) were previously attempted in the treatment of this patient, so it was reasonable to perform a clinical trial of these procedures. And, the treating doctor's medical records adequately documented that the patient responded favorably to the treatment provided because her range of motion, grip strength and neurological picture all improved over the treatment time in question. As a result, the disputed services fulfilled the statutory requirements since the patient obtained relief, promotion of recovery was accomplished and there was an enhancement of her ability to return to employment.

However, in terms of the new and established office visits, levels IV and V (#99204 and #99215, respectively), nothing in either the diagnosis or the medical records in this case supported the medical necessity of performing such comprehensive evaluations on this patient, particularly not when she was concurrently being evaluated by multiple providers. Therefore, these comprehensive evaluations were not supported as medically necessary.

Insofar as the supervised therapeutic exercises (#97110), therapeutic activities (#97530), and electrical stimulations (#97032) were concerned, the records revealed that these procedures had already been performed on this patient for five months before this second doctor of chiropractic began his care on this patient, and they had failed. Although he represented in his initial examination that the patient had only received passive modalities and no active rehabilitation whatsoever prior to presenting to his office, the initial treating doctor's records actually revealed that this claimant was placed on 4 units per visit of therapeutic exercises on 12/4/03, and then again on 3/25/04, only 3 weeks post-operatively. After so many months of participation in a supervised program, it would have been safe to transition the patient into a home exercise program. But if not, at the very least, the provider should have established why it was still necessary to perform supervised therapeutic exercises at that point in the patient's care (which he did not), particularly when current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises." The gains recorded during this time period would have likely been achieved through performance of a home program anyway.

In terms of the therapeutic ultrasound procedures (#97035), the records failed to document the rationale for suddenly performing this service in June of 2004, some 8 months post-injury and 3 months post-operatively, without providing the medical rationale for doing so. Therefore, the medical necessity for this service was unsupported.

And finally, with regard to the neuromuscular reeducation services (#97112), there was nothing in either the diagnosis or the physical examination findings on this patient that demonstrated the type of neuropathology that would necessitate the application of this service. According to a Medicare Medical Policy Bulletin, "This therapeutic procedure is provided to improve balance, coordination, kinesthetic sense, posture, motor skill, and proprioception. Neuromuscular reeducation may be reasonable and necessary for impairments which affect the body's neuromuscular

system (e.g., poor static or dynamic sitting/standing balance, loss of gross and fine motor coordination, hypo/hypertonicity). The documentation in the medical records must clearly identify the need for these treatments.” In this case, the documentation failed to fulfill these requirements, rendering the performance of this service medically unnecessary.

Conclusion/Decision to Certify:

The manual therapy techniques (#97140), the chiropractic manipulative therapies (#98943), and the durable medical equipment (#E1399 and #E0745) are all certified as medically necessary.

Decision to Not Certify:

The electrical stimulation #97032, therapeutic exercise #97110, ultrasound #97035, office visits, #99205/#99215, neuromuscular re education #97112 and therapeutic activities #97530 are not medically necessary.

References Used in Support of Decision:

Texas Labor Code 408.021

Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.

HGSA Medicare Medical Policy Bulletin, Physical Therapy Rehabilitation Services, original policy effective date 04/01/1993 (Y-1B)

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has given numerous presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty years.

MRloA 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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