

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 Coastal Spine Medical Center 5327 S. McColl Rd Edinburg, TX 78539	MDR Tracking No.: M5-05-2902-01
	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

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
8-17-04, 8-19-04, 8-31-04, 9-23-04, 9-30-04		CPT code 99212	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8-16-04	10-5-04	CPT codes G0283, 97124, E1399, 97035, 97112	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8-16-04	10-5-04	CPT codes 99214, 97113, 97110, CPT code 99212 on 9-21-04	<input checked="" type="checkbox"/> Yes <input 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 **prevailed** on the majority of the disputed medical necessity issues. The amount due the requestor for the medical necessity services is \$2,164.91.

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.

On 7-28-05 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 99212 on 8-23-04 and 8-30-04 was denied by the carrier as "TG – documentation does not support the service billed." The requestor provided documentation to support delivery of services per Rule 133.307(g)(3)(A-F). Recommend reimbursement of \$88.32 (\$44.16 X 2 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 \$650.00. The Division hereby **ORDERS** the insurance carrier to remit \$2,253.23 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.

Ordered by:

8-24-05

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.

August 18, 2005

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

Patient: ____
TWCC #: ____
MDR Tracking #: M5-05-2902-01
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 Medical Doctor with a specialty in Anesthesia and Pain Management. 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

According to the medical records, the patient was injured on ____ while working at _____ and lifting a heavy metal gate. He had immediate onset of low back pain. He was sent to the hospital and underwent x-rays and treatment with Dr. Luckay, but had difficulty working. He underwent physical therapy at Coastal Spine Medical Center in January 2002. He was referred to Dr. Trevino for pain management. As of 05-07-02, he was treated by Dr. Pechero, orthopedic surgeon. He underwent x-rays that revealed instability and an EMG, which was positive for left S1 radiculopathy. He underwent conservative treatment and when this failed, he underwent an anterior interbody L5-S1 fusion. He still continued with left sided back pain and weakness in the right leg with coldness and numbness with let leg pain. A second MRI of 08-06-03 revealed a disc protrusion at L3-L4 with annular tear and L4-L5 bulging. He was taking Zoloft, Clonazepam, Skelaxin and Ultracet.

Dr. David Willhoite, MD, designated doctor, evaluated the patient on 08-26-03 and determined the patient's statutory MMI at 10% and stated that he needed further treatment with possible hemilaminectomy/discectomy at L3-L4 or right lumbar sympathetic blocks. The patient then underwent a posterior fusion at L5-S1 with wide foramenectomy at L3-L4 on October 20, 2003 with Dr. Pechero. After the 2003 surgery, the patient was seen by Dr. Pechero on a regular basis but was not released for post-operative physical therapy until 06-15-04 due to the patient's pain and limitations per Dr. Pechero's office notes. The patient still had difficulty ambulating and presented with persistent S1 radiation of pain. His pain was minimally controlled with Darvocet.

Records Reviewed:

General Records

- Notification of IRO Assignment dated 07-28-05
- Receipt of MDR request notification dated 07-29-05
- MDR Request form dated 07-27-05

- EOBs for dates of service: 08-16-04, 08-17-04, 08-19-04,08-23-04, 08-23-04, 08-30-04, 08-31-04, 09-21-04, 09-23-04, 09-27-04, 09-28-04, 09-30-04

Records from the carrier

- Letter of carrier's position dated 08-05-05
- Office notes from Rio Grande Valley Orthopedic Center dated 12-09-03, 02-27-04, 03-26-04, 05-11-04, 06-15-04, 07-20-04, 08-26-04, 10-01-04,
- Coastal Spine Medical Center notes with Jesse Quintanilla, DC dated 10-05-04, 10-08-04, 08-17-04, 08-19-04, 08-23-04, 08-30-04, 08-31-04, 09-21-04, 09-23-04, 09-27-04, 09-28-04, 09-30-04, 10-05-04
- Designated Doctor evaluation with David Wilhoite, MD of 08-26-03

Records from the doctor

- TWCC IRO Assignment dated 07-29-04
- Receipt of MDR request notification dated 07-29-05
- Invoice # 1579 from Coastal Spine Medical Center to Specialty IRO
- Letter of Provider's position from Coastal Spine Medical Center dated 06-30-05
- Prescription from Dr. Pechero for physical therapy to lumbar spine (12 sessions)
- MDR Request form dated 07-27-05
- Initial HCFA forms for DOS: 08-16-04, 08-17-04, 08-19-04, 08-23-04, 08-30-04, 08-31-04, 09-21-04, 09-23-04, 09-27-04, 09-28-04, 09-30-04, 10-05-04
- HCFA forms for request for reconsideration for DOS: 08-16-04, 08-17-04, 08-19-04, 08-23-04, 08-30-04, 08-31-04, 09-21-04, 09-23-04, 09-27-04, 09-28-04, 09-30-04, 10-05-04
- EOBs for dates of service: 08-16-04, 08-17-04, 08-19-04,08-23-04, 08-23-04, 08-30-04, 08-31-04, 09-21-04, 09-23-04, 09-27-04, 09-28-04, 09-30-04
- Coastal Spine Medical Center daily notes dated: 08-16-04, 08-16-04, 08-17-04, 08-18-04, 08-23-04, 08-30-04, 08-31-04, 09-21-04, 09-23-04, 09-27-04, 09-28-04, 09-30-04, 10-05-04, 10-05-04
- Operative note of 10-20-03 by Dr. Ruben Pechero for lumbar fusion at L5-S1 with foramenectomy at left L3-L4

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of 99214/99212 office visits, G0283 electrical stimulation, 97124 massage, 97113 aquatic therapy, E1399 DME, 97035 ultrasound and 97112 neuromuscular reeducation from 8-16-2004 through 10-5-2004.

DECISION

The reviewer agrees with the previous adverse determination regarding 99212 (dates of 08-17-04, 08-19-04, 08-31-04, 09-23-04, 09-30-04), G0283, 97124, E1399, 97035, and 97112.

The reviewer disagrees with the previous adverse determination regarding 99214, 97113, 97110 from 8-16-04 through 10-05-04 and 99212 only for the date of 9-21-04.

BASIS FOR THE DECISION

The patient was postoperative nine months when he initiated with the physical therapy treatment in question. The patient's surgery in 10-03 consisted of a posterior fusion at L5-S1 with a wide foramenectomy at L3-L4. The patient also had a history of an anterior fusion at the L5-S1 level two years before. It is within reason that the patient's symptoms and pain postoperative from his second intervention would be such that his physical therapy postoperative would be postponed until he was physically capable of participating adequately. The patient was released from the orthopedic surgeon's care for post-operative physical therapy on 06-15-04. Therefore, it is medically necessary for the patient to undergo post-operative physical therapy for the dates in question, within reason. At nine months post operative, passive modalities of physical therapy would provide only limited and temporary relief at best and would not be indicated for his level of chronic pain. Their clinical benefit has not been proven in patients with failed back surgery

syndrome or chronic pain. Therefore, the coding for electrical stimulation, massage, ultrasound and neuromuscular evaluation would not be considered medically necessary for this gentleman's treatment. In addition, daily office visits

for re-evaluation would be excessive and not medically necessary. However, weekly visits for evaluation of progress could be reasonable and therefore the office visit of 09-21-04 would be reasonable especially since there is a lapse of a few weeks previous to this September visit and evaluation would be warranted.

This gentleman was entitled to the active modalities of physical therapy that he received. The medical literature supports active modalities of physical therapy post-operatively and for chronic pain. The patient also has a history of extensive intervention of his lumbar spine and the aqua therapy intervention was absolutely medically necessary in his post-operative status. In his case, this modality would be beneficial to strengthen the paravertebral and contributory muscle groups and provide more adequate strengthening and pain control as well as decrease the strain of traditional land therapy. After he completed the aqua therapy, he was apparently transitioned to land therapy to further increase range of motion and muscular strength, which was also medically necessary in this patient's case.

Although the patient may have received these active modalities previous to his second lumbar surgery, they would still be deemed medically necessary for his post-operative recuperation and to minimize the extent of long term physical limitations. These modalities have also been found to be beneficial according to ACOEM guidelines and the Philadelphia Guidelines. These recommend that the patient receive 10 physical therapy visits over 8 weeks as postoperative treatment. In this patient's case the approved 11 visits would be reasonable and contribute to his post-operative recovery.

In summary, it is the provider's responsibility to establish medical necessity in the request for treatment at this review level. The reviewer agrees that the patient presents with a failed back pain syndrome according to the medical records provided. Nonetheless, the active modalities of physical therapy were warranted for his post-operative recovery. However, the passive modalities have not only not been proven as beneficial through the medical literature, but would also be ineffective for treatment 9 months post surgery.

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