Texas Department of Insurance, Division of Workers' Compensation
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity and Fee Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier

Requestor's Name and Address:	MDR Tracking No.: M5-05-2930-01
Health and Medical Practice 324 N. 23rd St. Ste #201 Beaumont, TX 77707	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address:	Date of Injury:
TX Mutual Insurance Company, Box 54	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents included TWCC 60 form, Explanations of Benefits and CMS 1500's. Position summary states, "In the enclosed House Bill 2600, a Physical Medicine Session is defined as "any combination of up to three different physical medicine CPT codes and up to one and one-half hours of physical medicine CPT codes with time units. If the health care is medically necessary, then Rule 134.202 requires reimbursement in accordance with the Act and Commission rules. Physical therapy is used in the course of patient treatment to aid in the healing of soft tissue, thereby reducing the possibility of scar tissue and residual effects of a patient's condition."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

The respondent submitted Part IV of the TWCC 60. The position summary states, "Unless the provider can provide the actual portions of HB2600 and Section 408.021 that address this alleged conflict, then no conflict exists. Until such conflict has been ratified our position remains unchanged with respect to its reliance upon Medicare, in this case, the LCD."

PART IV: SUMMARY OF DISPUTE AND FINDINGS - Medical Necessity Items

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
11-8-04 – 3-30-05	CPT codes 97110-GP, 97032-GP, 97035-GP, 97124-GP, 95904-76, 97140-GP, 95900-59	☐ Yes ☒ No	-0-

PART V: 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 Division Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), Medical Dispute Resolution 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 disputed medical necessity issues.

In a letter dated 9-19-05 the requestor withdrew CPT code 97750 on date of service 11-8-04, CPT code 97110 on 12-3-04 and 12-6-04 and CPT code 97124 on date of service 12-15-04. These services will not be a part of this review.

Based on review of the disputed issues within the request, the 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 Medical Dispute Resolution.

On 8-4-05 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 97110 on 11-19-04 was denied by the carrier as "790-this charge was reduced in accordance with the Medical Fee Guideline." The requestor billed for 3 units and the carrier reimbursed for one unit. 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. The requestor has sent no medical documentation. Reimbursement not recommended.

CPT code 97140 on 12-10-04 was denied by the carrier as "434 - The value of this procedure is included in the value of the mutual exclusive procedure." Per the 2002 MFG CPT code 97140 is considered by Medicare to be a mutually exclusive procedure of CPT code 97012. However, a modifier is allowed in order to differentiate between the services provided. The requestor used the modifier "GP" which denotes a service which is delivered under an outpatient physician patient plan care. This is not a reimbursement code per Rule 134.202 (e)(9). Recommend no reimbursement.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308 and Rule 134.202.

PART VII: DIVISION DECISION

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code, Sec. 413.031, the Division has determined that the requestor is not entitled to additional reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

Findings and Decision by:

		9-27-05
Authorized Signature	Typed Name	Date of Findings and Decision

PART VIII: YOUR RIGHT TO REQUEST JUDICIAL REVIEW

Appeals of medical dispute resolution decisions and 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. The Division is not considered a party to the appeal.

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

Specialty Independent Review Organization, Inc.

September 1, 2005

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

Patient: ___
TWCC #: ___
MDR Tracking #: M5-05-2930-01
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 Doctor of Osteopathy with a specialty in Physical Medicine and Rehabilitation. 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

On ___ this patient was passing a desk when he tripped over the desk's chair and tried to keep from falling by stumbling over to a dinette table and fell forward. Upon impact, the table and chair collapsed under the weight of Mr. ___. He developed pain in his low back, left knee and left foot.

Records Reviewed:

- Medical records from Dr. William Novelli including an initial report on 11/1/04 and frequent periodic evaluations an follow-ups
- Evaluation by Dr. J.D. Bell dated 3/3/05, which included an impairment rating
- EMG/nerve conduction studies dated 3/30/05 by Dr. Proler

DISPUTED SERVICES

The items in dispute are the retrospective medical necessity of therapeutic exercises-97110-GPm electrical stimulation-97032-GP, ultrasound-97035-GP, massage therapy-97124-GP, nerve conduction sensory-95904-76, manual therapy technique-97140-GP and nerve conduction no F wave-95900-59 from 12/3/04 through 3/30/05.

DECISION

The reviewer agrees with the previous adverse determination.

BASIS FOR THE DECISION

The reviewer states that this patient was originally treated conservatively with therapeutic exercise, electrical stimulation, ultrasound and massage. In reviewing Dr. Novelli's records, this patient did not respond to these treatments, therefore these treatments should not have been continued from 12/13/04 through 3/30/05.

In reviewing "Clinical Evidence" published by the United Health Foundation January, 2002, regarding acute low back pain; advice to stay active speeds up symptomatic recovery and reduces chronic disability, but there's no evidence that bed rest, specific back exercises, massage, or other interventions such as temperature treatments, traction or acupuncture are effective.

Regarding EMG/Nerve conduction studies that were dated 3/30/05, these were not medically necessary. This patient was already placed at maximum medical improvement on 3/3/05.

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