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.: M5-05-3133-01
Cotton D. Merritt, D. C. 2005 Broadway Lubbock, TX 79401	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Box 45	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents included TWCC 60 form, Explanations of Benefits, medical documentation and CMS 1500's.

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Position paper states, "The office will maintain its denial."

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

Date(s) of Service	CPT Code(s) or Description	Medically Necessary?	Additional Amount Due (if any)
3-11-05 – 3-28-05	3 units of CPT code 97110	☒ Yes ☐ No	Already pad by carrier
3-11-05 – 3-28-05	More than 3 units of CPT code 97110	☐ Yes ☒ No	-0-
2-14-05, 3-2-05, 3-23-05	CPT code 99212-25	☒ Yes ☐	$135.00
1-31-05 – 5-3-05	CPT codes 97140, 97032, 97112, 99213, 99212-25 (except as above)	☐ 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 majority of the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is $135.00.

The IRO has indicated that "3 units of CPT code 97110 on each date of service from 3-11-05 through 3-28-05 are medically necessary." The IRO further states, " In other words, no more than 3 units of 97110 are necessary." Per the Table of Disputed Services, the Requestor states that 3 units of this service have already been paid by the carrier on these dates of service. Recommend no additional reimbursement.

Based on review of the disputed issues within the request, the 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 8-29-05 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.

The carrier denied CPT codes 95851 and 95831 on 1-31-05 as "R79-CCI: Standards of Medical/Surgical Practice." According to the 2002 MFG these procedures are considered by Medicare to be component procedures of CPT code 99204. Recommend no reimbursement.

CPT code 97110 on 2-1-05, 2-2-05, 2-3-05, 2-4-05, 2-7-05, 2-9-05, 2-11-05, 2-14-05, 2-16-05, 2-18-05, 2-21-05, 2-23-05, 2-25-05, 2-28-05, 3-2-05, 3-4-05, 3-7-05 and 3-9-05 was denied as "W - Workers' Compensation State fee Schedule Adj." 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 Medical 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.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.308

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 a refund of the paid IRO fee. The Division has determined that the requestor is entitled to reimbursement in the amount of $135.00. The Division hereby **ORDERS** the insurance carrier to remit this amount plus all accrued interest due at the time of payment to the Requestor within 30 days of receipt of this Order.

Findings and Decision and Order by:

		10-17-05
Authorized Signature	Typed Name	Date of Order

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.

Amended Report of 10/11/05

September 21, 2005

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

Patient:
DWC #:
MDR Tracking #: M5-05-3133-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Division of Workers' Compensation has assigned this case to Specialty IRO for independent review in accordance with DWC 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 DWC 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

The records indicate that Mr.___ was injured on ___ while employed with . He measures 5'9" and weighs 187 lbs. He slipped and fell down a flight of stairs while he was carrying some bags. He was transported to the UMC Medical Center and treated. He presented for treatment with Cotton Merritt, DC on 1/31/05. Dr. Merritt began passive and active therapies on the next visit. He continued with these therapies through 3/28/05. He underwent a cervical MRI, which indicated no evidence of HNP or stenosis. A lumbar MRI indicated multilevel degenerative changes from L2/3 through L5/S1, neural stenosis is noted at L2/3, L3/4, L4/5 and L5/S1. Neurodiagnostic testing was within normal limits.

His pain level began in the 8/10 range and was reduced to 6/10 as of 2/4/05. As of 2/23/05, the pain scale had reduced to a 4/10 while it reduced to a 3/10 as of 2/28/05. The examination of 3/10/05 indicates he had improved to a medium PDL while his requirements were of a heavy PDL. His pain level had increased to a 6/10 as of 3/14/05. By 3/23/05, the pain scale had decreased to a 3/10 once again.

The patient had a reported flare up on 5/3/05. He presented for examination and recommendations. Dr. Merritt berates the carrier's RME doctor in an unprofessional manner indicating that he is filing for an IRO decision for this care.

The patient was placed at MMI on 6/29/05 with 10% WP impairment. He was given a category II DRE to the cervical and lumbar spine.

RECORDS REVIEWED

Records were received from the requestor/treating doctor and from the respondent. Records from the requestor/treating doctor include the following: 9/7/05 letter from Cotton Merritt, DC, TWCC 69 with report dated 6/29/05, report of 5/3/05 by Dr. Merritt, exam report dated 3/10/05, treatment notes from 02/01/05 to 3/28/05, exam report of 1/31/05, neurodiagnostic testing report dated 3/3/05, 3/23/05 report by Bolkar Sahinler, MD, 3/7/05 cervical MRI report, 3/1/05 lumbar MRI report, cervical radiographic report of and ER records from UMC ER Center of .

Records from the respondent include some of the above in addition to the following: 8/31/0 letter by Jennifer Dawson, TWCC 60 and attachments, 5/4/05 notice of disputed issue form, 3/18/05 letter by Dr. Merritt, 3/22/05 report by Dr. Sahinler, 5/3/05 report by Dr. Merritt and 4/5/05 report by Dmitry Golovko, MD.

DISPUTED SERVICES

The disputed services include 97032, 97112, 97140, 97110, 99213 and 99212-25 from 1/31/05 through 5/3/05.

DECISION

The reviewer agrees with the previous adverse determination regarding codes 97140, 97032 and 97112 on all dates of service.

The reviewer disagrees with the previous adverse determination regarding a total of 3 units of 97110 on each date of service from 3/11/05 through 3/28/05. In other words, no more than 3 units of 97110 are necessary based upon the Medicare Guidelines, which indicate that documentation must prove that more than 45 minutes of care is necessary per date of service.

The reviewer disagrees with the previous adverse determination regarding code 99212-25 on 2/14/05, 3/2/05 and 3/23/05.

The reviewer disagrees with the previous adverse determination regarding code 99213 on 5/3/05.

BASIS FOR THE DECISION

The treatment by Dr. Merritt appears to have improved the patient's pain scale in a continual fashion throughout treatment. Secondly, the patient's functional improvement continued to improve based upon the 3/10/05 PPE and examination. He was returned to work on or about 3/28/05.

Upon reviewing the report by Dr. Golovko, he indicates that the gentleman has a complaint of LBP and states "this appears to be resolving and is likely to resolve completely within a brief time…Mr. ___…is capable of returning to full duty without restrictions. This would appear to be based upon his subjective opinion and not based upon an objective measure such as an FCE. Secondly, Dr. Golovko diagnoses the patient with a status post fall with lumbar and cervical contusions. This would appear to be a vague diagnosis. It is a medically accepted fact that the multilevel disc disease is considered a complicating factor in the treatment of lumbar pain. While it is not compensable, it must be considered during treatment as it will likely increase the treatment required based upon the ACOEM Guidelines.

Bi-weekly office visits are an accepted practice with in the medical community to manage the care of the patient. These are not medically necessary on a daily basis as per multiple SOAH decisions. The office visit for the management of a flare up/exacerbation is a medically necessary function for a treating doctor to perform.

According to the MDA, the heavy PDL qualifies for up to eighty-four days of disability secondary to a lumbar injury. The phase III Clinical guidelines indicate that up to eight weeks of PT should be attempted prior to moving onto the next phase of treatment.

Medical treatment.

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

REFERENCES

ACOEM Guidelines

Reed, P The Medical Disability Advisor, 2005

NASS Phase III Clinical Guidelines.

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

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