



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

#### PART I: GENERAL INFORMATION

<b>Type of Requestor:</b> (X) Health Care Provider ( ) Injured Employee ( ) Insurance Carrier	
Requestor's Name and Address: Summit Rehabilitation Centers 2500 W. Freeway #200 P.O. Box 380395 Ft. Worth, TX 76102	MDR Tracking No.: M5-06-0528-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Hartford Underwriters Insurance, Box 27	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

#### PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include DWC-60 package. Position Summary states, "Provider sent a request for reconsideration. Proof that carrier received request is also included. Carrier chose not to respond within the 28 day time frame rule."

#### PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

No position summary was received.

#### 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)
11-16-04	CPT code 73620	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$35.78
11-16-04	CPT code 99080-73	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$15.00
11-16-04	CPT code 99204	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$174.91
11-16-04 - 2-21-05	CPT code 97110 (\$36.99 x 35 units + \$36.14 X 37 units)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$2,631.83
11-16-04 - 12-21-04	CPT code G0283 (\$14.41 x 9 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$129.69
11-16-04 - 4-19-05	CPT code 95831 (\$30.56 + \$37.06)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$67.62
1-16-04 - 1-11-05	CPT code 97140 (\$34.13 + \$34.16 X 4 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$170.77
12-7-04, 12-21-04, 1-6-05, 1-10-05, 2-15-05	CPT code 99213 (\$68.24 x 2 DOS + \$68.31 X 3 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$341.41
1-4-05	HCPCS code E0745	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$89.51
11-16-04 - 4-19-05	CPT codes 96004, 99213 (12-7-04), 12-21-04, 1-6-05, 1-10-05, 2-15-05), 99354, G0283 (on or after 1-4-05), 97140 (on or after 1-19-05), 97110 (on or after 3-1-05), 97018	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> 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 prevail on the majority of the disputed medical necessity issues. The amount due the requestor for the items denied for medical necessity is \$3,656.52.

On 12-30-05 the requestor submitted a revised Table of Disputed Services (deleting some services) which was used in this review.

Regarding HCPCS code E0745 on 1-4-05: Per Rule 133.307 (e)(2)(A) a copy of the medical bill as originally submitted to the carrier for reconsideration in accordance with 133.304 was not submitted to the Division. There is no modifier on the Table of Disputed Services to identify this service or the amount to be reimbursed. Recommend reimbursement of \$89.51 per the 2005 HCPCS Fee Schedule.

**PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION**

28 Texas Administrative Code Sec. 133.304, 133.307, 133.308 and 2005 HCPCS Fee Schedule.

**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 carrier must refund the amount of the IRO fee (\$460.00) to the requestor within 30 days of receipt of this order. The Division has determined that the requestor is entitled to additional reimbursement in the amount of \$3,746.03. 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:

Donna Auby

1-10-06

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.

January 4, 2006

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

Patient: \_\_\_\_  
DWC #: \_\_\_\_  
MDR Tracking #: M5-06-0528-01  
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The TDI-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 reviewer notes that the patient's name is listed in two different ways via the DWC records and from the other parties. One spelling is "\_\_\_\_" while the other is "\_\_\_\_". The reviewer indicates that the records reviewed are considered to be of the same person who is the subject of this review. For the purposes of this review, the DWC spelling from the MR-117 will be used. \_\_\_\_ was injured at work on \_\_\_\_\_. She was employed by Boxer Property Management at the time of injury. The records note she was injured when an elevator door struck her right foot causing a crush injury.

She was provided with a right foot MRI on 11/22/04 which indicated bone marrow edema at the 1<sup>st</sup> Metatarsal. A PPE was performed on 11/22/04, 11/30/04 and 12/13/04 while muscle testing was performed on 12/6/05 and 2/21/05. Passive and active therapeutics were performed by Dr. Subia's office. An EMG/NCV was performed on 12/1/04. The EMG was normal but the NCV was interpreted as having an abnormally prolonged right sural latency. She was seen by Robert Ippolito, MD and was given injections of Kenalog. She was seen by a podiatrist, S. Erredge, as a DD on 1/24/05. She was not placed at MMI. Dr. Erredge indicates she may need surgical intervention. Dr. Ippolito's note of 2/3/05 indicates that an injection was provided. The treating doctor states this was surgery. The 4/19/05 note indicates surgery is pending on 4/21/05. Tarsal tunnel surgery was performed on 10/6/05 by Dr. Muncy. Dr. Erredge performed another DD exam on 10/18/05 indicating that further PT is warranted with progression to Work Hardening. Dr. Foster, carrier RME, indicates in his report of 11/7/05 that further care may be warranted due to the post-surgical complications.

#### RECORDS REVIEWED

Records were received from the requestor/treating doctor. The requestor filed an updated table on 12/29/05. DWC informed the IRO that this was the table to be reviewed on 01/02/06. Despite multiple requests, SIRO was unable to obtain records from the respondent.

Records from the requestor include the following: summary statement letter dated 12/20/05, 11/22/04 right foot MRI, notes from Andrew Small, MD from 11/16/04 through 09/22/05, EMG/NCV by Neuroscience Center of 12/1/04, notes from Robert Ippolito, MD from 1/20/05 through 2/17/05, 1/24/05 DD report by Susan Erredge, DPM, 1/3/05 peer review by Tim Fahey, DC, 1/5/05 nurses chronological list of records by Intracorp, 2/1/05 neurodiagnostic report by J. Garrison, MD, 2/9/05 CT right foot, 7/18/05 note by Michael Muncy, DO, 8/17/05 neurodiagnostic report by K. Toler, MD, 10/18/05 DD report by Dr. Erredge, 11/7/05 RME report by Daniel Foster, DO, daily notes by Marivel Subia, DC from 11/16/04 through 4/19/05, various TWCC 73's, ROM exams of 11/22/04, 11/30/04, 12/13/04 and 2/14/05, MMT exams of 12/6/04, 1/10/05 and 2/21/05.

#### DISPUTED SERVICES

The disputed services include 73620, 99080-73, 99204, 97110, G0283, 95831, 96004, 99213, 99354, E0745, 97140 and 97018 from 11/16/04 through 4/19/05.

#### DECISION

The reviewer agrees with the previous adverse determination regarding code 96004 (on all dates under review), 99213 (12/7/04, 12/21/04, 1/6/05, 1/10/05, 2/15/05), 99354 (on all dates under review), G0283 (on all dates on or after 1/4/05), 97140 (on all dates on or after 1/19/05), 97110 (on all dates on or after 3/1/05) and 97018 (on all dates under review).

The reviewer disagrees with the previous adverse determination on all remaining codes or dates of service not specifically mentioned above.

#### BASIS FOR THE DECISION

The reviewer indicates that there was apparently a month gap from time of first treatment from the date of injury for an unknown reason. This could lead to the chronicity that is evident in this case. The reviewer disagrees with the medical necessity of 96004 as per the AMA CPT code-book which indicates that this code is used for "motion analysis" when performed in a motion analysis laboratory using 3-D Kinematics and electromyography. Office visits were approved on an approximately 2 week schedule. The SOAH decisions were not exactly what the requestor indicated. The ALJ indicated that the manipulations used during the office visits reduced pain; however, in this case manipulations were not used to reduce the patient's pain. Therefore, bi-weekly office visits were approved.

G0283 was not approved after the prescription of the neuromuscular stimulator. The reviewer could find no medical justification in the notes for a duplication of service in this manner. Code 97140 was denied after 1/19/05 because it is a generally accepted medical fact that greater than 8 weeks of soft tissue mobilization techniques is not effective. 97018 was denied as the patient had a pain scale of a 2/10. This type of passive therapy is not considered medically necessary at this late stage of treatment.

The reviewer indicates that through the ROM and MMT exams the patient was showing slow but steady improvement through 2/21/05. The patient's plantar flexion had improved 120% while her dorsiflexion improved 200% during the initial phases of treatment. This is definitely increased functional performance by the patient meeting the statutory requirements of TLC 408.021. Data was not provided by the treating doctor after this date; therefore, medical necessity cannot be established as per the Medicare Coding and Documentation requirements. The other physician's on this case indicated that the patient continued improving throughout treatment however.

#### REFERENCES

TLC 408.021

Medicare Coding and Documentation Guidelines

AMA CPT Codebook 2004-2006

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 the reviewing provider has no known conflicts of interest between that provider and the injured employee, the injured employee's employer, the injured employee's insurance carrier, the utilization review agent, or any of the treating doctors or insurance carrier health care providers who reviewed the case for decision before referral to the IRO.

Sincerely,

Wendy Perelli, CEO

CC: Specialty IRO Medical Director

### **Your Right To Appeal**

**If you are unhappy with all or part of this decision, you have the right to appeal the decision. The decision of the Independent Review Organization is binding during the appeal process.**

**If you are disputing the decision (other than a spinal surgery prospective decision), the appeal must be made directly to a district court in Travis County (see Texas Labor Code §413.031). 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. If you are disputing a spinal surgery prospective decision, a request for a hearing must be in writing and it must be received by the Division of Workers' Compensation, Chief Clerk of Proceedings, within ten (10) days of your receipt of this decision.**

Sincerely,

Wendy Perelli, CEO

**I hereby certify, in accordance with DWC- Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the Division via facsimile, U.S. Postal Service or both on this 4<sup>th</sup> day of January 2006**

**Signature of Specialty IRO Representative:**

**Name of Specialty IRO Representative: Wendy Perelli**