



Specialty Independent Review Organization, Inc.

August 29, 2006

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

Patient: \_\_\_\_  
DWC #: \_\_\_\_  
MDR Tracking #: M2-06-1735-01  
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 proposed care 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 Chiropractic with a specialty in Chiropractic Rehabilitation. 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

\_\_\_\_ was injured on \_\_\_\_ while employed with the Lady Bird Johnson Wildflower Center. The injury occurred when she lifted a coffee urn and felt pain in her neck with radiation down the right arm to the thumb and pain in the lumbar spine. The medical records indicate a discussion as to the original compensability of an ankle injury, which was later, expanded to a cervical and lumbar injury as well. Ms. \_\_\_\_ has undergone chiropractic, physical therapy, conservative medical and pain management injections over the approximately 2 years of treatment. She was prescribed Vax-D therapy of 20 visits by James Edwards, DC, which was denied by the respondent.

## RECORDS REVIEWED

Records were received and reviewed from the requestor/treating doctor and from the respondent. Records from the requestor include the following: 5/30/06 and 3/24/06 preauth requests from Dr. Edwards, 6/6/06 preauth review from Hartford, 8/14/06 letter from Dr. Edwards, initial patient intake paperwork, daily notes from 9/15/04 through 7/7/06, 12/17/04 cervical MRI report, 3/11/05 neurodiagnostic testing, 5/26/06 lumbar MRI report, 4/27/05 6/7/06 and 7/7/06 notes from Chiropractic and Spine Center of Austin (CSCA), DD report of 8/9/05, 9/8/05 letter from Ms. \_\_\_\_, carrier review by Mark Carlson, DC and case studies from CSCA.

Records from the respondent include the following in addition to any records previously mentioned above from the requestor: TWCC 69 of 3/2/06, 3/24/06 LMN by Dr. Edwards, various TWCC 73's, Notes from TX Urgent Care Associates of 9/20/04, 10/08/04 through 03/28/05 notes by Gordon Marshall, MD, notes from Greater Austin PT from 10/08/04 through 02/11/05, initial eval from ProMed Rehab, 5/18/05 note by Mark Malone, MD, 6/30/05 ESI operative report by Dr. Malone and 7/14/05 through 9/15/05 behavioral medicine reports by D. Cole, MED, LPC.

## REQUESTED SERVICE

The requested service is a twenty-session vertebral axial decompression treatment protocol (S9090) with ice (97010) and interferential therapy (G0283) with a transition to therapeutic exercises (97110).

## DECISION

The reviewer disagrees with the previous adverse determination regarding thirteen dates of service of code S9090.

The reviewer agrees with the previous adverse determination regarding 97010, G0283 and 97110. The reviewer agrees with the previous adverse determination regarding the remaining seven units of S9090.

## BASIS FOR THE DECISION

The reviewer has reviewed the ACA website for the reported formal resolution by the House of Delegates in March of 2006. The reviewer was unable to find any statement on the website. Regardless, the reviewer agrees with the ACA's position that S9090 is a proper code to be used with vertebral axial decompression. The reviewer reviewed the CMS website to determine the status of code S9090. The latest reference to the code S9090 is in January of 2006 when the code is found to be not covered as per CMS coverage issues manuals 135 and 161. However, the current DWC rules indicate that if a therapy is not covered by Medicare it should be reviewed based upon medical necessity. Therefore, TLC 408.021 comes into play at this point. Lastly, the requestor indicates a SOAH hearing in which the ALJ has determined that axial decompression

is a payable service if the treatment: lead to improvement as per TLC 408.021, was properly documented and was preauthorized by the carrier. Dr. Edwards used the following findings of fact: no complications, sufficient records and improvement in symptomatology.

Dr. Edwards indicate that these 'findings of facts' are the same as those provided by the ALJ. It is the reviewer's opinion that the previously mentioned factors are more important in the ALJ's decision (specifically the preauthorization) because they were mentioned in his findings. In Dr. Edwards letter of 8/14/06, he states "this is a case where the provider sincerely believed delaying proper treatment-while waiting for MDR approval-would be detrimental to the patient. For that reason, treatment was initiated and has been successfully completed...it was nevertheless the right thing to do for this claimant." The reviewer notes that this is an unusual situation as this case is a prospective review and not a retrospective review as per DWC. Regardless, the provider did not obtain preauthorization prior to initiating care.

The reviewer notes that the patient has improved during the Vax-D treatment as per the submitted notes. However, the provider notes consisted of generally single line text with pain scale numbers (VAS), very basic subjective complaints, apparent adjustment coordinates and unknown coding format (i.e. C12, IS12) under 'ther/rehab'. These notes are of poor but acceptable quality; therefore, it is difficult for an external reviewer to understand and review them over time. There appear to be separate notes for the SDT therapy consisting of 13 visits from 6/8/06 through 7/7/06.

Regarding the medical necessity of 97010, 97110 and G0283, the provider has shown that these treatments have been tried in the past and failed. At this point, a home exercise program should be utilized.

It is clear that the patient benefited from the initial 13 sessions of Vax-D therapy that were documented by the provider. The reviewer notes that it is not medically necessary for a continued 7 sessions of S9090 as the patient had already returned to work and was "so much better...making a huge difference in pain and her life" as per her statement of 7/7/06. No documentation was submitted that would indicate a reasonable likelihood of continued progress of this patient with this therapeutic procedure.

## REFERENCES

Texas Labor Code 408.021

Ramos G. Efficacy of vertebral axial decompression on chronic low back pain: study of dosage regimen. *Neurol Res* 2004 April; 26(3):320-4.

Centers for Medicare and Medicaid Services. Medicare Coverage Issues Manual. Transmittal 161, Nov 2002.

Centers for Medicare and Medicaid Services. Medicare Coverage Issues Manual. Transmittal 135, Feb 2001.

SOAH No. 453-04-7288

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

## **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 carrier, requestor, claimant (and/or the claimant's representative) and the via facsimile, U.S. Postal Service or both on this 29<sup>th</sup> day of August 2006**

**Signature of Specialty IRO Representative:**

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