MEDICAL CONTESTED CASE HEARING NO. 08103

DECISION AND ORDER

This case is decided pursuant to Chapter 410 of the Texas Workers' Compensation Act and Rules of the Division of Workers' Compensation adopted thereunder.

ISSUE

A contested case hearing was held on 06/18/08, with the record closing on 07/28/08 to decide the following disputed issue:

1. Is (Health Care Provider) entitled to reimbursement of $94.64 for two units of CPT Code 97032, two units of CPT Code 97035, and reimbursement for CPT Code 97110-59 for DOS 2/9/07?

PARTIES PRESENT

Petitioner appeared and was represented by JS, attorney. Respondent appeared and was represented by JE, lay representative. Claimant's appearance was waived.

BACKGROUND INFORMATION

(Health Care Provider, Respondent, treated Claimant for the _____compensable injury. This is a non-network claim. (Health Care Provider) requested reimbursement for physical therapy services provided on 02/09/07. Carrier had pre-authorized 9 units but did not limit the time. (Health Care Provider) requested the units, but did not say the sessions might last 60 to 90 minutes. Carrier reduced the time to 60 minuets and paid accordingly. The unpaid minuets are the subject of this dispute. The case went to Medical Review on 05/09/08. Medical Review ordered the Carrier to pay $94.64, stating the Carrier is not to retrospectively deny authorized services.

Texas Labor Code Section 408.021 provides that an employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed. Health care reasonably required is further defined in Texas Labor Code Section 401.011 (22a) as health care that is clinically appropriate and considered effective for the injured employee's injury and provided in accordance with best practices consistent with evidence based medicine or, if evidence based medicine is not available, then generally accepted standards of medical practice recognized in the medical community. Health care under the Texas Workers' Compensation system must be consistent with evidence based medicine if that evidence is available. Evidence based medicine is further defined in Texas Labor Code Section 401.011 (18a) to be the use of the current best qualified scientific and medical evidence formulated from credible scientific studies, including peer-reviewed medical literature and other current scientifically based texts and treatment and practice guidelines.

In accordance with the above statutory guidance, the Division of Workers' Compensation has adopted treatment guidelines by Division Rule 137.100. This rule directs health care providers to provide treatment in accordance with the current edition of the Official Disability Guidelines (*ODG*), and such treatment is presumed to be health care reasonably required as defined in the

Texas Labor Code. Thus, the focus of any health care dispute starts with the health care set out in the Official Disability Guidelines (*ODG*).

The Preface to the *ODG* states,

"Generally there should be no more than 4 modalities/procedural units in total per visit, allowing the PT visit to focus on those treatments where there is evidence of functional improvement, and limiting the total length of each PT visit to 45-60 minutes unless additional circumstances exist requiring extended length of treatment. Treatment times per session may vary based upon the patient's medical presentation but typically may be 45-60 minutes in order to provide full, optimal care to the patient. Additional time may be required for the more complex and slow to respond patients. While an average of 3 or 4 modalities/procedural units per visit reflect the typical number of units, this is not intended to limit or cap the number of units that are medically necessary for a particular patient, but documentation should support an average greater than 4 units per visit. These additional units should be reviewed for medical necessity, and authorized if determined to be medically appropriate for the individual injured worker."

(Health Care Provider) did not give notice they intended to provide modalities/procedural units at each visit, that could last up to two and a half hours. Without anything more specific from the (Health Care Provider), Carrier properly limited the time to 60 minutes. (Health Care Provider) failed to seek a longer treatment time based on medical necessity and failed to request a reconsideration of the preauthorization if it considered the limiting language confusing. (Health Care Provider) rendered services utilizing more time than authorized by the *ODG*.

If the Carrier were not allowed to limit the session lengths as it did, a session could last eight hours. If the limit of the session length was an improper preauthorization, then the limiting preauthorization could be construed as a total denial of preauthorization.

Carrier did not preauthorize therapy inconsistent with the *ODG*. The Decision of Medical Review is overcome by the great weight of other evidence. (Health Care Provider) is not entitled to reimbursement of $94.64 for date of service 02/09/07.

Even though all the evidence presented was not discussed, it was considered. The Findings of Fact and Conclusions of Law are based on all of the evidence presented.

FINDINGS OF FACT

1. The parties stipulated to the following facts:

   A. Venue is proper in the (City) Field Office of the Texas Department of Insurance, Division of Workers' Compensation.

   B. On _____, Claimant was the employee of Employer.

   C. Claimant was injured in the course and scope of his employment on _____.

2. Carrier delivered to Claimant a single document stating the true corporate name of Carrier, and the name and street address of Carrier's registered agent, which document was admitted into evidence as Hearing Officer's Exhibit Number 2.

3. Carrier properly denied reimbursement of $94.64, for services rendered to Claimant on 02/09/07, because the requested reimbursement was for services, which were not preauthorized.

4. On 02/09/07, (Health Care Provider) provided treatment in excess of *ODG* guidelines.

CONCLUSIONS OF LAW

1. The Texas Department of Insurance, Division of Workers' Compensation, has jurisdiction to hear this case.

2. Venue is proper in the (City) Field Office.

3. (Health Care Provider) is not entitled to reimbursement of $94.64 for two units of CPT Code 97032, two units of CPT Code 97035, and reimbursement for CPT Code 97110-59 for DOS 2/9/07.

DECISION

(Health Care Provider)is not entitled to reimbursement of $94.64 for two units of CPT Code 97032, two units of CPT Code 97035, and reimbursement for CPT Code 97110-59 for DOS 2/9/07.

ORDER

Carrier is not liable for the benefits at issue in this hearing. Claimant remains entitled to medical benefits for the compensable injury in accordance with §408.021.

The true corporate name of the insurance carrier is **AMCOMP ASSURANCE CORPORATION** and the name and address of its registered agent for service of process is:

CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 350
AUSTIN, TEXAS 78701

Signed this 28th day of July, 2008.

G. W. Quick
Hearings Officer