

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 02-22-05.

Dates of service 02-16-04 through 02-20-04 per Rule 133.308(e)(1) were not timely and will not be a part of this review.

The IRO reviewed (98940) chiropractic manipulation, (97140-59) manual therapy technique, distinct procedural service, (97112) neuromuscular re-education, (97116) gait training, (97110) therapeutic exercises, (99070) supplies and materials, (E1399) DME, miscellaneous, (99215-25) office visit, significant, separate E/M service performed by the same physician on the same date of service, (E0745) neuromuscular stimulator electric shock unit and (L0515) LSO (DME) rendered from 02-23-04 through 05-28-04 that were denied based upon "V".

The IRO concluded that the manipulation treatments (98940) from 02-23-04 through 03-10-04 and a maximum of 11 manipulation treatments from 03-15-04 through 05-28-04, a maximum of 4 units of therapeutic exercises (97110) per date of service from 02-23-04 through 03-12-04 and the office visit (99215-25) on 03-12-04 **were** medically necessary. The IRO further concluded that the remaining treatments, procedures, examinations equipment and DME **were not** medically necessary.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee. The amount due from the carrier for the medical necessity issues equals **\$2,339.17**.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review 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 the Medical Review Division.

On 04-07-05, 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.

Review of CPT code 97112 (1 unit) date of service 02-24-04, CPT code 99080 dates of service 03-03-04, 04-30-04 and 05-24-04, CPT code 97116 dates of service 03-22-04, 03-26-04, 03-31-04, 04-05-04, 04-07-04, 04-14-04, 04-16-04, 04-21-04, 04-28-04, 05-05-04, 05-10-04, 05-14-04, 05-19-04, 05-21-04, CPT code 98940 date of service 03-26-04, CPT code 97140-59 dates of service 03-26-04 (2 units), 04-02-04, 04-09-04, 04-12-04, CPT code 97112 date of service 03-26-04, CPT code 97110 dates of service 03-26-04, 04-12-04, 04-14-04, 04-16-04, 04-19-04,

04-21-04, 04-23-04, 04-26-04, 04-28-04, 04-30-04, 05-03-04, 05-05-04, 05-07-04, 05-10-04, 05-12-04, 05-14-04, 05-17-04, 05-19-04, 05-21-04, 05-24-04, 05-26-04 and 05-28-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees for dates of service 02-23-04 through 03-12-04 and 03-15-04 through 05-28-04 totaling \$2,339.17 in accordance with the Medicare program reimbursement methodologies effective August 1, 2003 per Commission Rule 134.202(c), plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

This Findings and Decision and Order are hereby issued this 3rd day of May 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

April 25, 2005

TEXAS WORKERS COMP. COMISSION
AUSTIN, TX 78744-1609

CLAIMANT:

EMPLOYEE:

POLICY: M5-05-1892-01

CLIENT TRACKING NUMBER: M5-05-1892-01 5278

Medical Review Institute of America (MRIOA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRIOA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRIOA has performed an independent review of the case in question 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. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating

they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRIOA for independent review.

Records Received:

Records from the State:

- Notification of IRO Assignment, 4/6/05
- Texas Workers' Compensation Commission notice of Medical Dispute Resolution request, 4/7/05
- Medical Dispute Resolution Request/Response, 2/22/05
- Table of Disputed Services
- Explanation of Benefits Audits

Records Received from Requestor:

- Letter from Patrick Davis, DC
- Operative report, 1/19/04
- Broadspire Notice of Pre-Authorization, 1/12/04
- EMG/NCS Report, Frank Morrison, MD, 9/29/03
- Letter from Patrick Davis, DC, 2/16/04
- Letter from Patrick Davis, DC, 3/12/04
- Letter from Patrick Davis, DC, 4/9/04
- Letter from Patrick Davis, DC, 5/7/04
- Letter from Patrick Davis, DC, 5/28/04
- SOAP notes, 2/16/04 - 5/28/04

Summary of Treatment/Case History:

The claimant underwent physical medicine treatments, manipulation, diagnostic imaging and surgery after injuring his lumbar spine at work on ___ when he "wretched/jarred" his low back while trying to stabilize a low boy forklift.

Questions for Review:

The dates of service in dispute are 2/23/04 through 5/28/04. Items in dispute: CPT codes #98940 chiropractic manipulation, #97140-59 manual therapy technique, distinct procedural service, #97112 neuromuscular re-education, #97116 gait training, #97110 therapeutic exercises, #99070 supplies and materials, #E1399 (DME), miscellaneous, #99215-25 office visit, significant, separate E/M service performed by the same physician on the same date of service, #E0745 Neuromuscular stimulator electric shock unit, #L0515 LSO (DME). These services were denied for medical necessity with "V" codes.

1. Were the disputed services medically necessary?

Explanation of Findings:

Physical medicine is an accepted part of a rehabilitation program following surgery. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. Therefore, a maximum of 4 units of therapeutic exercises (#97110) per date of service during the 4-week period from 2/23/04 through 3/12/04 are considered to be medically necessary.

The medical records documented that chiropractic spinal adjustments were performed. According to the AHCPR (reference 1) guidelines, spinal manipulation was the only recommended treatment that could relieve symptoms, increase function and hasten recovery for adults suffering from acute low back pain; the British Medical Journal (reference 2) reported that spinal manipulation combined with exercise yielded the greatest benefit; and JMPT (reference 3) reported that spinal manipulation may be the only treatment modality offering broad and significant long-term benefit for patients with chronic spinal pain syndromes. Based on those findings, all manipulation treatments (#98940) from 2/23/04 through 3/10/04 and a maximum of 11 manipulation treatments (#98940) during the 11-week period from 3/15/04 through 5/28/04 are considered to be medically necessary. The manipulation treatment on 3/12/04 is not considered to be medically necessary since, according to CPT (reference 4), it would be duplicative and thus not medically necessary since the #99215-25 code was billed on that same date of service.

Therapeutic exercises (#97110) may be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home with the least costly of these options being a home program. A home exercise program is also preferable because the patient can perform them on a daily basis. On the most basic level, the provider has failed to establish why the services were required to be performed one-on-one when current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises." Services that do not require "hands-on care" or supervision of a health care provider are not considered medically necessary services even if the services are performed by a health care provider. The gains obtained after 03/12/04 would have likely been achieved through the performance of a home program so all monitored therapy after that date was medically unnecessary.

In regard to #97140-59 (manual therapy technique), #97112 (neuromuscular re-education), #97116 (gait training), #99070 (supplies and materials), #E1399 (DME - miscellaneous), #E0745 (Neuromuscular stimulator electric shock unit) and #L0515 (LSO - DME), their medical necessity is not supported by the medical records submitted.

There is nothing in either the diagnosis or the physical examination findings on this patient that demonstrated the type of neuropathology that would necessitate the application of #97112 (neuromuscular re-education). According to a Medicare Medical Policy Bulletin, "This therapeutic procedure is provided to improve balance, coordination, kinesthetic sense, posture, motor skill, and

proprioception. Neuromuscular reeducation may be reasonable and necessary for impairments which affect the body's neuromuscular system (e.g., poor static or dynamic sitting/standing balance, loss of gross and fine motor coordination, hypo/hypertonicity). The documentation in the medical records must clearly identify the need for these treatments."

Conclusion:

1. Were the disputed services medically necessary?

Decision to Certify:

The manipulation treatments (#98940) from 02/23/04 through 03/10/04 are medically necessary. A maximum of 11 manipulation treatments (#98940) during the 11-week period from 03/15/04 through 05/28/04 are certified as medically necessary.

A maximum of 4 units of therapeutic exercises (#97110) per date of service during the 4-week period from 02/23/04 through 03/12/04 are certified as medically necessary.

The #99215-25 office visit on 03/12/04 is medically necessary.

Decision to Not Certify:

None of the remaining treatments, procedures, examinations, equipment and DME are medically necessary.

References Used in Support of Decision:

1. Bigos S., Bowyer O., Braen G., et al. Acute Low Back Problems in Adults. Clinical Practice Guideline No. 14. AHCPH Publication No. 95-0642. Rockville, MD: Agency for Health Care Policy and Research, Public Health Service, U.S. Department of Health and Human Services. December, 1994.
2. *UK Back pain Exercise And Manipulation (UK BEAM) randomised trial*: Medical Research Council, British Medical Journal (online version) November 2004.
3. Muller, R. Giles, G.F. J Manipulative Physiol Ther 2005;28:3-11.
4. *CPT 2004: Physician's Current Procedural Terminology, Fourth Edition, Revised*. (American Medical Association, Chicago, IL 1999)
5. Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.
6. HGSA Medicare Medical Policy Bulletin, Physical Therapy Rehabilitation Services, original policy effective date 04/01/1993 (Y-1B)

This review was provided by a chiropractor who is licensed in Texas, certified by the National Board of Chiropractic Examiners, is a member of the American Chiropractic Association and has several years of licensing board experience. This reviewer has written numerous publications and given several presentations with their field of specialty. This reviewer has been in continuous active practice for over twenty-five years.

MRloA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

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