



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

Type of Requestor: (X) Health Care Provider () Injured Employee () Insurance Carrier	
Requestor's Name and Address: Patrick R. E. Davis, D. C. 115 W. Wheatland Rd. Ste. 101 Duncanville, Texas 75116	MDR Tracking No.: M5-06-0720-01
	Claim No.:
	Injured Employee's Name:
Respondent's Name and Address: Lowe's Companies, Inc. Box 17	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: REQUESTOR'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC-60 package. Position Summary states, "Documentation supports medical necessity."

PART III: RESPONDENT'S PRINCIPLE DOCUMENTATION AND POSITION SUMMARY

Documents include the DWC-60 response.

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)
12-17-04 – 12-29-04	One unit of 97110-59 per date of service (\$36.99 X 6 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$221.94
12-17-04 – 12-29-04	One unit of 97530-59 per date of service (\$37.58 X 6 DOS)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	\$225.48
12-17-04 – 12-29-04	More than one unit of 97110-59 and 97530-59 per date of service	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0
1-3-05 – 1-14-05	CPT codes 97110 and 97530-59	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	0
12-17-04 – 1-14-05	CPT codes 97112-59, 97140-59, E0745-RR, 98940-59, 97035-59, E1399-NU	<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 not prevail on the majority of the disputed medical necessity issues. The amount due the requestor for the medical necessity items is \$447.42.

Regarding CPT code 99080-73 on 1-7-05: Neither party submitted copies of an EOB for this date of service. Per 133.307 (e)(2)(A) a copy of all medical bills as originally submitted to the carrier for reconsideration in accordance with 133.304 must be submitted for services denied as medical fee issues. The requestor did not submit a medical bill for this date. Recommend no reimbursement.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES IMPACTING DECISION

28 Texas Administrative Code Sec. 133.304, 133.307(e)(2)(A), 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 for the services involved in this dispute in the amount of \$447.42. 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 by:

Donna Auby

02-06-06

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.

AMENDED REPORT 2/1/2006

February 1, 2006

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

Patient: ____
DWC #: ____
MDR Tracking #: M5-06-0720-01
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

Ms. ____ was injured on ____ while employed with Lowes Home Centers, Inc. The injury occurred while she was lifting a box of tiles. She apparently began treatment with the company doctor. She then began treatment with Patrick Davis, DC on or about 3/22/04. Treatment notes from March through December of 2004 were not presented by either party to this claim with the exception of the peer review by David Niekamp, DC. These notes indicate the patient went to passive and active therapies through May of 2004. A cervical MRI was unremarkable while the neurodiagnostic testing indicated C7 radiculopathy. She was examined by Drs. Willis and Aggarwal for pain medications and pain management. An ESI was performed on 9/23/04. Selective nerve root blocks were administered on 11/1/04. Another ESI was performed on 12/15/04. Post injection rehabilitation was performed from 12/17/04 through 1/14/05.

RECORDS REVIEWED

Records were received from the requestor/treating doctor and from the respondent. Records from the requestor include the following: 1/3/06 letter by Dr. Davis, various denials from Helmsman Management Services, Inc on patients with names that have been blacked out, various approvals/denials from TASB on patients with names that have been blacked out, 12/16/04 report by Injury Solutions, injection therapy notes from 12/17/04 through 01/14/05 and 01/14/05 report by Injury Solutions.

Records from the respondent include the following: 12/20/04 report by David Niekamp, DC, various TWCC 62's, various letters by Bunch and Assoc, various request for reconsideration letters, PM and treatment notes by Dr. Davis from 12/20/04 through 01/14/05, procedure note of 12/15/04, consult with Frank Morrison, MD and various HICFA 1500's.

DISPUTED SERVICES

Disputed services include 97110-59, 97112-59, 97140-59, 97530-59, E0745-RR, 98940-59, 97035-59, E1399-NU and 99215-25 from 12/17/04 through 1/14/05.

DECISION

The reviewer agrees with the previous adverse determination regarding all services performed on or after 1/3/05 with the exception of those specifically mentioned below.

The reviewer agrees with the previous adverse determination regarding code 97140-59 (on all dates of service), 97530-59 (on all dates of service after 12/29/04), 97035-59 (on all dates of service), E1399-NU, 97110 (on all dates of service after 12/29/04), E0745-RR, 97112-59 (on all dates of service), 99215-25 and 98940-59 (on all dates of service).

The reviewer disagrees with the previous adverse determination regarding code 97110-59 (one unit from 12/17/04 through 12/29/04) and 97530 (one unit from 12/17/04 through 12/29/04).

BASIS FOR THE DECISION

The reviewer notes that the treatment performed partially falls within the peer review performed by Dr. Niekamp. In the 12/20/04 report, Dr. Niekamp indicates that he would support care 'if she is noted to benefit from cervical injections and post-intervention active care for two weeks'. Secondly, according to the Work Loss Data Institute, Lower back (lumbar and thoracic). Corpus Christi (TX): Work Loss Data Institute; 2004. 335, up to two weeks of post-injection therapy should be performed.

Regarding codes 97140 and 97035, these are passive therapies and are used generally during the acute and subacute phases of treatment. Therefore, these are not medically necessary in the chronic stage. Regarding code 97530 and 97112, these codes are not documented as to Medicare Guidelines and standards. Specifically, the documentation indicates (re: 97530) 'patient attempted and performed the following 2 prescribed "standard" kinetic procedures taking no longer than 30 minutes'. This does not document the time component of this code for the number of units billed. Therefore, only one unit is allowed. Regarding 97112, the notes state that 'neuromuscular reeducation (15 minute therapy) was performed'. This does not meet documentation standards. The types of NMR exercises are not discussed.

Regarding the manipulation, this type of treatment had been attempted and failed since 2004; therefore, there would not be a likely medical benefit for the patient at this late stage of treatment. The 97110 code is approved times one unit as the same verbiage is used in this case as in the 97530 code.

Regarding the muscle stimulator, it is not medically necessary, as it is not documented on the 12/17/04 note by the TD. There is no medical evidence of the efficacy of a muscle stimulator at this stage of treatment. By the same note, the DME is not medically necessary.

Regarding the 99215-25 report of 1/14/05, the documentation provided in the daily note indicates that all of the complexities of a -215 code were not documented in the provided documentation. Medicare Guidelines indicate a comprehensive history and physical be performed when this code is used. The documentation does not provide this information. Secondly, the presenting problem did not meet requirements for this code.

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 TDI/DWC- Rule 102.4 (h), that a copy of this Independent Review Organization decision was sent to the DWC via facsimile, U.S. Postal Service or both on this 1st day of February 2006

Signature of Specialty IRO Representative:

Name of Specialty IRO Representative: Wendy Perelli