

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 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. The dispute was received on 6-19-03.

The Medical Review Division has reviewed the IRO decision and determined that the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare and therefore; the **requestor did not prevail** in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 the only issue** to be resolved. The special report on 6-26-02, myofascial release, therapeutic exercise, ultrasound, electrical muscle stimulation, and hot/cold packs on 6-26-02 and 9-19-02 through 9-25-02 were found to be medically necessary. The myofascial release, therapeutic exercises, ultrasound, and hot/cold packs on 6-24-02, 6-28-02 through 7-25-02, and 9-26-02; the office visits on 6-26-02 and 7-25-02; and the office visit with manipulation on 9-30-02 were not found to be medically necessary. The respondent raised no other issues for denying reimbursement for the above listed services.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 6-24-02 through 9-30-02 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 25th day of August 2003.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

DZT/dzt

August 13, 2003,

Amended August 20, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
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MDR Tracking #: M5-03-2658-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an 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.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The ___ 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 ___ 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

___ had been diagnosed with bilateral carpal tunnel syndrome, cubital tunnel syndrome and/or low back pain. This patient works as a customer service representative and her job requires her to type the majority of her workday. She has worked at this capacity for about twenty-three years. The mechanism of injury would be consistent with a repetitive type injury. She has a past history of neck pain. The patient also obtained imaging studies that would coincide with a preexisting condition, particularly as it relates to her low back.

The initial evaluating doctor, ___ indicated multiple possible conditions that could be associated with many years of occupying the position of a customer service representative, a position which requires many hours of sitting and working on a keyboard or computer. However, the primary complaint appears to the upper extremity/wrist/forearm/ elbow region. There were interesting findings within the lumbar region on the initial evaluation of 4/19/02 as it relates to the low back condition. This patient was able to flex her lumbar spine to "65+" and there was no documentation of increased discomfort. However, she was only able to perform a SLR to 45° on the left and 40° on the right. In addition there were incomplete and/or incorrect documentation of orthopedic tests (classical vs. clinical significance)

DISPUTED SERVICES

Under dispute is the medical necessity of myofascial release, therapeutic exercises, ultrasound, physical medicine, special reports, office visits, therapeutic procedures and an office visit with manipulation provided from 6/24/02 through 9/30/02.

DECISION

The reviewer both agrees and disagrees with the prior adverse determination.

The reviewer disagrees with the prior adverse determination for the following:

- The special report (TWCC-73: work status)
- 97250 (Myofascial Release), 97110 (Therapeutic Exercise), 97035 (Ultrasound), 97014 (Electrical Muscle Stimulation) and 97010 (Hydroculation/Cryotherapy) for the following dates: 6/26/02 and 9/19/02-9/25/02.
- The office visit for the following dates: 9/19/02

The reviewer agrees with the prior adverse determination for the following:

- 97250 (Myofascial Release), 97110 (Therapeutic Exercises), 97035 (Ultrasound) and 97010 (Hydroculation/Cryotherapy) for the following dates: 6/24/02, 6/28/02-7/25/02 and 9/26/02
- The office visits for the following dates: 6/26/02, 7/25/02
- The office visit with manipulation

BASIS FOR THE DECISION

The records provided demonstrated significant evidence of contradictory evaluations to determine the medical necessity. Therefore, this review had to be based on treatment rendered as compared to the corresponding evaluations.

The procedures that are considered medically necessary are 97250 (Myofascial Release), 97110 (Therapeutic Exercise), 97035 (Ultrasound), 97014 (Electrical Muscle Stimulaiton) and 97010 (Hydroculation/Cryotherapy) for the following dates: 6/26/02 and 9/20/02-9/25/02.

The special report (TWCC-73: work status) performed is considered medically necessary based on the fact that this is a mandatory form required by TWCC.

The office visit(s) with manipulation do appear to address the upper extremity to some degree, and therefore are considered to be medically necessary. The office visits that are not deemed medically necessary are deemed so because of the lack of objective and/or subjective documentation required for that level of office visit.

With regard to the office visits (99213) that require a “*problem focused history, exam, low complexity medical decision, 15 minutes*,” (7/25/02 & 9/19/02), these were conducted by _____. DOS 9/19/02 is considered medically necessary because all the criteria required for this level of evaluation were upheld and/or documented. However, DOS 7/25/02 is not considered medically necessary due to the lack of objective documentation.

With regard to office visits (99215) that require a “*comprehensive history, exam, high complexity medical decision, 40 minutes*” in length (6/26/02), this office visit is considered not medically necessary due to the lack of required objective documentation and/or level of complexity of the evaluation.

With regard to the office visit with manipulation on 9/30/02, the manipulation component specifically addressed the spine, not the upper extremity/wrist/hand. All prior documentation indicated a condition specific for an upper extremity condition, not spinal. The extremity/wrist was not directly addressed/adjusted.

The physical modalities performed that are not considered medically necessary lack the objective findings needed to support the procedures. These would be 97250 (Myofascial Release), 97110 (Therapeutic Exercises), 97035 (Ultrasound) and 97010 (Hydroculation/ Cryotherapy) for the following dates: 6/24/02, 6/28/02–7/25/02 and 9/26/02.

There is absolutely no objective evidence documented on the *Occupational Therapy Daily Treatment Log*.

The “O” (objective findings) portion of the SOAP notes only indicated “see flow sheet for tx (treatment) and ex’s (exercises) performed.” In addition, there are significant contradictory exam findings documented as they relate to this patient. The examination findings documented by _____ - _____ on 6/24/02 indicated orthopedic tests highly reliant on subjective input. The objective documentation demonstrated that full range of motion (from) was achieved “without difficulty.” Muscle testing was graded at “5/5 and = (equal).” In addition, “sensory is intact.” However, _____ indicated the contrary on 6/25/02 when his evaluation indicated that the patient demonstrated grip weakness for the right hand and/or specific fingers in addition to positive orthopedic tests highly reliant on subjective input. Therefore, examinations conducted on the upper extremity after 6/25/02 must be consolidated and/or compared in order to determine the medical necessity. On 6/26/02 _____ documented positive orthopedic tests as related to the wrists. They were highly reliant on subjective input and one of the tests (Phalen’s) that could also demonstrate a loss of motion because the patient “cannot tolerate flexion of the wrist...” The next day, 6/27/02, the patient was evaluated again by _____ - _____ in which no objective evidence was documented (NEG swelling... NEG ecchymosis, etc.), only subjective complaints. This patient obtained four different evaluations in four days, two of which indicated motor deficits and positive subjective inputted orthopedic tests, while the other two only demonstrated subjective indication without objective findings.

The contradictions continue. _____ - _____ examined this patient again on 7/11/02. The objective evidence documented on the following upper extremity evaluation indicated full range of motion was achieved “without difficulty.” Muscle testing was graded at “5/5; however, weaker than expected grip strength bilaterally.” The patient’s “sensory is intact.” In addition, there was documentation of improved orthopedic tests that were highly reliant on subjective input.

The contradictions continued throughout 6/24/02-9/30/02. This patient obtained eleven evaluations within this time period. In basic terms as it relates to objective findings, the 6/24/02, 6/27/02, 7/11/02, 8/8/02, 9/12/02 and 9/26/02 evaluations demonstrated no objective evidence, ignoring subjective input. On the other hand, the 6/25/02, 6/26/02, 7/29/02, 8/29/02 and 9/18/02 evaluations demonstrated/indicated motor deficits within the hand, ignoring subjective input. Based on the fact that there were alternating and contradictory evaluations documented by three different healthcare providers in such a short period, the reviewer opines that this particular patient would need a non-biased evaluation to actually determine if she actually has a deficit.

Therefore, with regard to the physical modalities conducted, each date of service must be determined by a corresponding evaluation. 6/24/02 is considered not medically necessary due to the lack of objective evidence supporting the physical modalities conducted. However, services rendered from 6/25/02-6/26/02 are based on the exam findings indicated on 6/25/02 and 6/26/02 and are considered medically necessary.

Dates of services from 6/28/02-7/25/02 are considered not medically necessary due to the lack of objective evidence documented on the 6/27/02 evaluation.

Services rendered from 7/29/02-8/7/02 are based on the exam findings indicated on 7/29/02 and are considered medically necessary.

Services rendered from 9/19/02-9/25/02 are based on the findings indicated on 9/18/02 and are considered medically necessary.

Services rendered from 9/26-9/30 (last date of service for this review) are based on the exam findings indicated on 9/26/02 and are considered not medically necessary due to the lack of objective evidence documented on the corresponding evaluation.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,