THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-03-3887.M5

MDR Tracking Number: M5-02-3100-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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 Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor $460.00** for the paid IRO fee. For the purposes of determining compliance with the Order, the Commission will add 20 days to the date the Order was deemed received as outlined on page one of this Order.

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. There are still fee issues to be resolved.

DOS	CPT CODE	EOB Denial Code	Reference	Rationale
10/26/01 11/1/01	97265 x 2 97250 x 2 97122 x 2 97110 x 2	A	96 MFG Med. GR I. A. 10. a. Rule 134.600 (h)	Preauthorization letter dated 10-2-01 authorized 12 sessions physical therapy. PT began on 10-3-01 and daily notes support PT on 10-3-01, 10-15-01, 10-17-01, 10-26-01, 10-30-01, 11-1-01, 11-5-01, 11-19-01, 11-29-01, and 12-4-01 (10 sessions). Daily notes on 10-26-01 and 11-1-01 support CPT codes 97265, 97250, and 97122; therefore, recommend reimbursement as billed. Daily notes do not support CPT code 97110. See **RATIONALE** below.
10/30/01 11/5/01 11/19/01 11/29/01 12/20/01 12/27/01 01/08/02	99213	V	IRO Decision	The IRO determined these services were medically necessary. Therefore, recommended reimbursement.
01/07/02 01/08/02 01/09/02	97545WH 97456WH			

RATIONALE: Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these

individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one". Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division (MRD) has reviewed the matters in light of the Commission requirements for proper documentation.

The MRD declines to order payment for code 97110 because the daily notes did not indicate whether the doctor was conducting exclusively one-to-one sessions with the claimant, the notes did not clearly indicate activities that would require a one-on-one therapy session, the notes did not indicate the type of activity/therapy, the notes did not reflect the need for one-on-one supervision and there was no statement of the claimants medical condition or symptoms that would mandate one-on-one supervision for an entire session or over an entire course of treatment.

The above Findings and Decision are hereby issued this 10th day of June 2003.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

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 10-30-01 through 1-9-02 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 10th day of June 2003.

David R. Martinez, Manager
Medical Dispute Resolution
Medical Review Division

DRM/dzt

April 23, 2003

Texas Workers' Compensation Commission
Medical Dispute Resolution
4000 South IH-35, MS 48
Austin, TX 78704-7491

Attention: Rosalinda Lopez

Re: Medical Dispute Resolution - **ADDENDUM**
MDR #: M5-02-3100-01
IRO Certificate No.: IRO 5055

Dear Ms. Lopez:

The initial report of the independent review of the above-named case was submitted in a letter dated 01/31/03. The reviewer disagreed with the determination of the insurance carrier and was

of the opinion that the office visits w/manipulations, work hardening program and physical performance testing for the period of 11/05/01 through 01/09/02 were medically necessary.

___ was informed via correspondence from TWCC dated 03/25/03 that one office visit on 10/30/01 was not listed on the Notification of IRO Assignment, however, was listed on the table of disputed services. Additional documentation to include the office visit on 10/30/01 was obtained from the provider and the same physician who originally reviewed this case considered the medical necessity of this date of service. This reviewer is a Certified Doctor of Chiropractic Medicine.

Clinical History:
Presented in original case review of 01/31/03.

Disputed Services:
Office visit on 10/30/01.

Decision:
The reviewer disagrees with the determination of the insurance carrier. The reviewer is of the opinion that the office visit on 10/30/01 was medically necessary in this case.

Rationale:
Review of the previously submitted medical records and the 10/30/01 treatment note reveals a treatment plan that shows progressive, active therapeutic applications. In addition, the Functional Capacity Evaluations show a relevance of applied therapeutics with a focus for return-to-work applications.

Work hardening applications were found to be medically necessary from 11/05/01 through 01/09/02. It is realistic to believe that the provider had a necessity to perform the 10/30/01 therapy visit due to the progressive applications that the patient was being transitioned into at that time in the provider's applied treatment plan.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,