

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

SOAH DOCKET NO. 453-03-3424.M5

MDR Tracking Number: M5-02-3139-01

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. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

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 unresolved fee issues.

The requestor billed codes 97250, 97110, 97112, 99213, 97122, 95730, and 97265 on dates of service 8/9/01, 8/14/01, 8/16/01, 8/21/01, 8/23/01, 8/28/01, 8/31/01, 9/4/01, 9/6/01, 9/12/01, 9/13/01, 9/20/01, 9/26/01, 9/27/01, 10/5/01, 10/10/01, 10/12/01. Neither party submitted EOBs; therefore, the review for these dates of service will be per the 96 MFG. Daily notes document services rendered for all these disputed dates of service. Recommend reimbursement as billed - \$1,938.00.
For code 97110, see RATIONALE below.

The requestor billed codes 97265, 97122, 97112, and 97110 on 11-12-01 and 11-20-01. The insurance carrier denied these services as “Z – preauthorization was requested but denied... .” Office notes submitted indicate physical therapy began 7-30-01. Eight weeks of therapy ended 9-20-01; therefore, preauthorization is required. Documentation does not support preauthorization was requested or received. No reimbursement recommended.

The requestor billed codes 99213, 99214, 97110, 97112, 97035, 97250, 97265, 97012, 97014, 99080, and 99090 on dates of service 10/15/01, 10/22/01, 10/25/01, 10/31/01, 11/5/01, 11/7/01, 11/9/01, 11/16/01, 11/20/01, 11/26/01, 11/28/01, 12/7/01, 12/12/01, 12/14/01, 12/17/01, 12/19/01, 12/26/01, 12/27/01, 12/28/01, 12/31/01, 1/2/02, 1/7/02, 1/9/02, 1/11/02, 1/14/02, 1/23/02, 1/28/02, 1/30/02, 2/1/02, 2/4/02, 2/8/02, 2/11/02,

2/13/02, 2/15/02, 3/7/02, 3/29/02, 4/18/02, and 4/26/02. The insurance carrier denied these services as unnecessary medical with and without a peer review. The IRO deemed these services as medically necessary.

Recommend reimbursement as billed - \$3,555.00.

The requestor billed code 97110 on 5-13-02. The insurance carrier denied as “D – duplicate charge.” Neither party submitted an original EOB; therefore, the review for this date of service will be per the 96 MFG. See RATIONALE below. No reimbursement recommended.

The insurance carrier submitted EOBs showing payments recommended for dates of service 5-16-02 through 7-3-02 and the requestor submitted an updated table to reflect these payments.

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 where neither party submitted an EOB and where the insurance carrier denied the service as a duplicate charge 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.

Consequently, the Commission has determined that **the requestor prevailed** on the majority of the medical fees (\$5,493.00). 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.

The above Findings and Decision are hereby issued this 25th day of April 2003.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay \$5,493.00 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 8-9-01 through 5-13-02 in this dispute.

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

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dzt

October 14, 2002

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5 02 3139 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.

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

___ sustained a crush injury to his right leg and knee for which he underwent chiropractic manipulation, physical therapy and therapeutic exercise prior to knee surgery as well as post-surgically. Temporary pain relief was noted following these treatments and is

documented within the progress notes. ____, the surgeon on the case, evaluated the patient on October 15, 2001 and recommended continued physical therapy at 3 times per week. The treatment continued until ____ first knee surgery on February 18, 2002. ____ again recommended post operative therapy upon his follow-up visit with the patient on March 25, 2002. A second surgery was to be performed on September 9, 2002

DISPUTED SERVICES

Medical necessity for physical therapy treatment and office visits rendered from August 8, 2001 to July 3, 2002.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The office visits and physical medicine rendered from August 8, 2001 through July 3, 2002 are deemed to be medically necessary in accordance with the TWCC fee guidelines. These treatments were intended to “cure or relieve” the symptoms resulting from the compensable injury as outlined in the Texas Labor Code, Section 401.001 (31). Symptom control is demonstrated throughout the notes prior to surgery, and the post operative therapy was utilized in an attempt to bring the injured worker to maximum medical improvement so that he could be returned to full employment.

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,