

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

SOAH DOCKET NO. 453-04-0042.M5

MDR Tracking Number: M5-02-3249-01

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 IRO reviewed chiropractic treatment and diagnostic studies rendered from 09-25-01 to 2-26-02 that were denied based upon "U" or "T".

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.

The IRO determined that treatment up to 1-8-02 was medically necessary.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
10-1-01 10-3-01 10-5-01 10-8-01 10-10-01 10-15-01 10-17-01 10-19-01 10-22-01 10-24-01 10-29-01 10-31-01 11-2-01 11-5-01	97265	\$43.00	\$0.00	U	\$43.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of 14 X \$43.00 = \$602.00 is recommended.
10-1-01 10-3-01 10-5-01 10-8-01 10-10-01 10-15-01 10-17-01 10-19-01 10-24-01	97110	\$280.00	\$0.00	T or U	\$35.00/15 min	Medicine GR (I)(A)(9)(b) and (I)(C)9)	IRO concluded these services were medically necessary; therefore reimbursement of 12 X \$280.00 = \$3360.00 is recommended.

10-31-01 11-2-01 11-5-01							
10-22-01 10-29-01	97110	\$245.00	\$0.00	T or U	\$35.00/15 min	Medicine GR (I)(A)(9)(b) and (I)(C)9)	IRO concluded these services were medically necessary; therefore reimbursement of 2 X \$245.00 = \$490.00 is recommended.
TOTAL		\$4452.00					The requestor is entitled to reimbursement of \$4452.00 .

The IRO concluded that all services provided after 1-8-02 were not medically necessary.

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

Consequently, the commission has determined that **the requestor did not prevail** on the majority of the medical fees (\$4452.00). Consequently, the requestor is not owed a refund of the paid IRO fee.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On February 11, 2003, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
9-25-01 11-15-01	95851(3) 95851(2)	\$40.00 each	\$0.00	G	\$36.00 each	CPT code Description	The requestor billed for a comprehensive office visit, range of motion testing and muscle testing on these dates.
9-25-01 11-15-01	97750MT	\$215.00 \$172.00		G F	\$43.00 /body area	Medicine GR (I)(E)(2) (a) and (b)(i)(ii)(iii) Medicine GR (I)(E)(3) TWCC and the Importance	On 9-25-01 the requestor billed \$475.00 for the services. On 11-15-01 the requestor billed \$392.00 for the services The carrier reimbursed the provider \$103.00 for the comprehensive office visit. Range of Motion testing and

						of Proper Coding	<p>Muscle testing are not global to the office visit.</p> <p>The requestor noted that on these dates physical capacity testing was done. Per Medicine GR (I)(E)(2)(b)(ii), physical capacity evaluations are a component of a FCE. The MFG states that physical evaluations, range of motion and muscle testing are global to a Functional Capacity Evaluation. Per Medicine GR (I)(E)(3), "muscle testing may replace six components of the functional abilities test and shall be reimbursed (by time required) as a component of the FCE, not exceeding the MAR for an FCE."</p>
9-25-01 11-15-01	95851(3) 95851(2)	\$40.00 each	\$0.00	G	\$36.00 each		<p>Therefore, the requestor billed incorrectly by billing components of an FCE separately. On 9-25-01, he billed \$475.00. The MAR for an initial FCE is \$500.00. Per Medicine GR (I)(E)(2)(a), the second FCE's MAR is \$200.00. The requestor exceeded this amount by billing \$392.00. Per MFG, the requestor is due the difference between \$475.00 and \$103.00 for initial FCE = \$372.00; and \$200.00 for second FCE and \$103.00 = \$97.00. For a total of \$469.00.</p>
9-25-01 11-15-01	97750MT	\$215.00 \$172.00		G F	\$43.00 /body area		

9-27-01 1-8-02 1-11-02 1-28-02 2-13-02 2-25-02	97750MT	\$129.00 \$172.00 \$215.00 \$215.00 \$258.00 \$172.00	\$0.00	G F F F F F	\$43.00 /body area	Medicine GR (I)(E)(3) CPT code Description Medicine GR (I)(E)(2) (a) and (b)(i)(ii)(iii) TWCC and the Importance of Proper Coding	<p>On 9-27-01 muscle testing was the only service billed; therefore, it is not global to any other service. Report supports billing. Reimbursement of \$129.00 is recommended.</p> <p>1-11-02, 1-28-02, 2-13-02 report supports 4 body areas tested; therefore, 4 X \$43.00 = \$172.00. \$172.00 X 3 dates = \$516.00.</p> <p>On 1-8-02 and 2-25-02 requestor performed physical capacity testing. Per Medicine GR (I)(E)(2)(b)(ii), physical capacity evaluations are a component of a FCE. The MFG states that physical evaluations, range of motion and muscle testing are global to a Functional Capacity Evaluation. Per Medicine GR (I)(E)(3), “muscle testing may replace six components of the functional abilities test and shall be reimbursed (by time required) as a component of the FCE, not exceeding the MAR for an FCE.”</p> <p>Therefore, the requestor billed incorrectly by billing components of an FCE separately. On 1-8-02 and 2-25-02, he billed \$252.00. Per Medicine GR (I)(E)(2)(a), the third and final FCE’s MAR is \$200.00. The requestor exceeded this amount by billing \$252.00. Per MFG, the requestor is due the MAR of \$200.00 for date of service 1-8-02.</p> <p>The requestor has exceeded the number of FCE’s allowed per MFG; therefore, no reimbursement is due for 2-25-02.</p>
11-7-01 11-9-01	97265	\$43.00	\$0.00	A	\$43.00	Rule 134.600(h)	According to the medical records, the claimant was injured on _____. He was initially treated at _____ on 8-23-01. Claimant did
11-7-01 11-9-01	97250	\$43.00	\$0.00	A	\$43.00	Rule 134.600(h)	

11-7-01 11-9-01	97110 (8)	\$280.00	\$0.00	A	\$35.00 / 15 min.	Rule 134.600(h) Medicine GR (I)(A)(9)(b) and (I)(C)9)	not seek treatment with requestor until 9-10-01. It appears on this date claimant underwent testing and diagnostic studies, claimant was given refreezable ice packs, lumbar support, and analgesic balm.
11-7-01	97014	\$17.00	\$0.00	A	\$15.00	Rule 134.600(h)	Claimant returned the next day and underwent physical therapy treatment. Per Rule 134.600(h)(10), the initial 8 weeks of physical therapy treatment do not required preauthorization. The initial 8 weeks ended prior to 11-7-01. Preauthorization approval reports were not submitted. Therefore, no reimbursement is recommended.
11-9-01	97150	\$27.00	\$0.00	A		Rule 134.600(h)	
11-15-01 1-9-02	99080-73	\$15.00	\$0.00	F	\$15.00	Rule 129.5(d)	Claimant's work status did not change from 9-25-01 on 11-15-01 and 1-8-02. Therefore, per statute filing of reports was not necessary. No reimbursement is recommended.
1-23-02	E1399	\$25.00	\$0.00	G	DOP	DME GR	TENS supplies are not global to any services billed on this date, reimbursement of \$25.00 is recommended.
TOTAL		\$2579.00					The requestor is entitled to reimbursement of \$ 1339.00.

This Decision is hereby issued this 18th day of July 2003.

Elizabeth Pickle
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 \$5791.00 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 09/25/01 through 02/26/02 in this dispute.

This Order is hereby issued this 18th day of July 2003.

Roy Lewis
Medical Dispute Resolution Supervisor
Medical Review Division

October 25, 2002

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

MDR Tracking #: M5 02 3249 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

The documentation states that ___ was at work for ___ as a front-end loader when he sustained an on-the-job injury on ___. He and another driver were lifting a piece of aluminum with their loaders to put it in an oven to melt it down. The other employee made an error, causing him to drop his side of the aluminum. This caused ___ to fall off of the loader two feet onto the floor injuring his low back. The patient was sent to ___ emergency center and treated for a sprain. The patient then sought care with ___ at ___ and underwent active and passive care for his condition. The patient was sent for a MRI on 10/4/2001 that displayed a lumbar HNP at L5/S1 measuring 7mm. The patient also underwent an EMG that displayed no neurogenic compromise. The patient underwent a series of epidural steroid injections that gave only temporary symptomatic relief. The documentation provided show the carrier denying physical therapy services after the first six weeks of care from 10/1/2001 to 2/26/2002 due to unnecessary medical treatment based on *review of the claim (without peer review) and does not follow TWCC guidelines/treatment exceed medically accepted utilization review.*

DISPUTED SERVICES

Chiropractic treatment, active and passive physical modalities.

DECISION

The reviewer disagrees in part and agrees in part with the prior adverse determination. Treatment up to January 8, 2002 was necessary and after that date the patient was not making enough progress to warrant continued PT and was actually decreasing range of motion within the lumbar region, therefore protocol should have been changed at that point.

BASIS FOR THE DECISION

The adopted medical fee guidelines effective 4/1/1996 clearly state that the exclusive use of physical medicine modalities is limited to a maximum of 2 weeks unless documentation is provided substantiating the need for continued use of these modalities. ___ did not display enough of a positive response after 1/8/2002 to warrant the continued treatment provided after this date and therefore the treatment would be considered necessary up to that date. The treatment provided up to then falls within the Mercy Center Guidelines and the Texas Guidelines for Chiropractic Quality Assurance and Practice Parameters.

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,