

MDR Tracking Number: M5-02-3270-01

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 office visits and physical therapy, and the treating doctor's review of the report rendered from 11-14-01 to 12-7-01 denied based upon "U" were found to be medically necessary.

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(r)(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.

The following table identifies the disputed services that were denied based upon EOB denial code, "F" and "L, and the Medical Review Division's rationale:

A TWCC-53 was submitted that indicates that the Commission approved claimant's request to change treating doctors on 12-31-01. Records indicate that claimant was initially treated by S. E. Thompson, M.D., followed by Dr. Michael Jenks, M.D., then referred to Dr. Scott Breeze, M.D., and finally by Dr. Brian Randall, DC.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
9-1-01 9-10-01 9-12-01 9-20-01 9-21-01 9-24-01 9-26-01 10-8-01 10-31-01 11-2-01 11-5-01	99212	\$35.00	\$0.00	F, L	\$32.00	Rule 133.3(b)	SOAP note for 9-1-01 was not submitted. Based upon Rule, except in the case of an emergency, the treating doctor shall approve or recommend all health care rendered to the injured employee. The requestor was not officially the claimant's treating doctor until 12-31-01.

11-7-01 11-9-01							Records do not support that claimant's treating doctor recommended and approved treatment for the disputed dates of service. No reimbursement is recommended.
9-1-01 9-10-01 9-21-01 9-24-01 9-26-01 10-5-01 10-8-01 10-10-01 10-12-01 10-15-01 10-17-01 10-31-01 11-2-01 11-5-01 11-7-01 11-9-01	97250	\$45.00	\$0.00	F, L	\$43.00	Rule 133.3(b)	As stated above regarding Treating Doctor issue, no reimbursement is recommended.
9-1-01 10-17-01 11-5-01 11-9-01	97110	\$210.00	\$0.00	F, L	\$35.00 each 15 minutes	Rule 133.3(b)	As stated above regarding Treating Doctor issue, no reimbursement is recommended.
9-10-01 9-20-01 9-21-01 9-24-01 9-26-01 10-5-01 10-8-01 10-10-01 10-15-01 10-31-01 11-2-01	97110	\$140.00	\$0.00	F, L	\$35.00 each 15 minutes	Rule 133.3(b)	As stated above regarding Treating Doctor issue, no reimbursement is recommended.
9-12-01	97110	\$105.00	\$0.00	F, L	\$35.00 each 15 minutes	Rule 133.3(b)	As stated above regarding Treating Doctor issue, no reimbursement is recommended.
10-12-01 11-7-01	97110	\$175.00	\$0.00	F, L	\$35.00 each 15 minutes	Rule 133.3(b)	As stated above regarding Treating Doctor issue, no reimbursement is recommended.
9-1-01 9-10-01 9-21-01 9-24-01 9-26-01 10-5-01 10-8-01 10-10-01 10-12-01	97035	\$25.00	\$0.00	F, L	\$22.00	Rule 133.3(b)	As stated above regarding Treating Doctor issue, no reimbursement is recommended.
9-10-01	97265	\$45.00	\$0.00	F, L	\$43.00	Rule	As stated above regarding

9-21-01 9-24-01 9-26-01						133.3(b)	Treating Doctor issue, no reimbursement is recommended.
9-20-01 10-5-01 10-8-01 10-10-01 10-12-01 10-15-01 10-17-01 10-31-01 11-2-01 11-5-01 11-7-01 11-9-01	97014	\$20.00	\$0.00	F, L	\$15.00	Rule 133.3(b)	As stated above regarding Treating Doctor issue, no reimbursement is recommended.
9-20-01 10-10-01 10-15-01 10-17-01 10-31-01 11-5-01 11-7-01 11-9-01	97010	\$20.00	\$0.00	F, L	\$11.00	Rule 133.3(b)	As stated above regarding Treating Doctor issue, no reimbursement is recommended.
10-5-01	99213	\$50.00	\$0.00	F, L	\$48.00	Rule 133.3(b)	As stated above regarding Treating Doctor issue, no reimbursement is recommended.
10-9-01	99080-73	\$15.00	\$0.00	F, L	\$15.00	Rule 133.3(b) Rule 129.5(d)	States claimant still is unable to return to work. No change in claimant's work status, therefore, the filing of report was not necessary. As stated above regarding Treating Doctor issue, no reimbursement is recommended.
10-10-01	99214	\$71.00	\$0.00	F, L	\$71.00	Rule 133.3(b)	As stated above regarding Treating Doctor issue, no reimbursement is recommended.
11-2-01	97124	\$30.00	\$0.00	F, L	\$28.00	Rule 133.3(b)	As stated above regarding Treating Doctor issue, no reimbursement is recommended.
TOTAL							The requestor is not entitled to reimbursement .

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 Decision is applicable to dates of service 9-1-01 through 12-7-01 in this dispute.

This Order is hereby issued this 2nd day of July 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

November 22, 2002

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

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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

___ was detailing a car on ___ when a bucket slipped and he tried to catch it. This, it turn, gave a traction injury to the left upper extremity. The patient went to the company doctor and x-rays were taken. The patient was prescribed medications for his condition. ___ was then sent to ___ who prescribed physical therapy. He then sought care with ___ and was undergoing active and passive care for his condition. ___ was sent for an MRI on 7/12/01 that displayed a tear with retraction of the long head of the biceps.

DISPUTED SERVICES

The carrier is denying office visits, physical therapy sessions and the treating doctor's review of the report as unnecessary medical on 11/14/01 through 12/7/01.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The ___ reviewer disagrees with the carrier's decision, finding that the treatment would indeed be reasonable and necessary. ___ was not considered a surgical candidate from the orthopedic evaluation. His range of motion improved and the subjective pain scale went from a 10 to a 4 with the first eight weeks of therapy. The doctor then pre-certified the treatment dates in question, and they were approved by the insurance company. From the RME doctor's report, the employer did not have light duty available.

The Fourth Edition AMA Guidelines state a patient has met MMI when a condition has become static or stabilized during a period of time sufficient to allow optimal tissue repair, and one that is unlikely to change in spite of further medical or surgical therapy. ___ had not reached that as of 11/14/01 – 12/7/01. The employer, not having any modified duty for this patient, was also taken into account. The treatment provided falls within the Mercy Fee Guidelines, TCA guidelines, and well within the Spinal Treatment Guidelines.

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,