

THIS DECISION HAS BEEN APPEALED. THE
 FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
 SOAH DOCKET NO. 453-04-3076.M5

MDR Tracking Number: M5-03-1987-01

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. This dispute was received on 12-2-02.

The IRO reviewed mechanical traction, myofascial release, therapeutic exercises, ultrasound therapy, office visits with manipulations, and special supplies rendered from 08/02/02 to 08-28-02, 09-05-02 and 09-06-03, 10-23-02 through 11-26-02, and 01-15-03 to 01-17-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

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.

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

On June 24, 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	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
09/03/02	97250	48.00	0.00	D	43.00	MFG, MGR (I)(11)(C)(3)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$43.00
09/03/02	97110	35.00	0.00	D	35.00	MFG, MGR (I)(A)(9)(b)	*See rational below. No reimbursement recommended
09/03/02	97110	35.00	0.00	D	35.00		
09/03/02	97110	35.00	0.00	D	35.00		
09/03/02	99213	48.00	0.00	D	48.00	MFG, MGR (I)(B)(1)(b)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$48.00

10/11/02	97035	22.00	0.00	D	22.00	MFG, MGR (I)(a)(iii)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$22.00
10/11/02	97250	43.00	0.00	D	43.00	MFG, MGR (I)(11)(C)(3)	SOAP notes delivery of service. Reimbursement recommended in the amount of \$43.00
10/11/02	97110	35.00	0.00	D	35.00	MFG, MGR (I)(A)(9)(b)	*See rational below. No reimbursement recommended
10/11/02	97110	35.00	0.00	D	35.00		
10/11/02	97110	35.00	0.00	D	35.00		
10/11/02	99213	48.00	0.00	D	48.00	MFG, MGR (I)(B)(1)(b)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$48.00
10/15/02	97012	20.00	0.00	D	20.00	MFG, MGR (I)(9)(a)(ii)	SOAP notes do not confirm delivery of services. No reimbursement recommended
10/15/02	97035	22.00	0.00	D	22.00	MFG, MGR (I)(a)(iii)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$22.00
10/15/02	97250	43.00	0.00	D	43.00	MFG, MGR (I)(11)(C)(3)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$43.00
10/15/02	97110	35.00	0.00	D	35.00	MFG, MGR (I)(A)(9)(b)	*See rational below. No reimbursement recommended
10/15/02	97110	35.00	0.00	D	35.00	MFG, MGR (I)(A)(9)(b)	*See rational below. No reimbursement recommended
10/15/02	99213	48.00	0.00	D	48.00	MFG, MGR (I)(B)(1)(b)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$48.00
10/16/02	97035	22.00	0.00	D	22.00	MFG, MGR (I)(a)(iii)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$22.00
10/16/02	97035	22.00	0.00	D	22.00	MFG, MGR (I)(a)(iii)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$22.00
10/16/02	97012	20.00	0.00	D	20.00	MFG, MGR (I)(9)(a)(ii)	SOAP notes do not confirm services were rendered as billed. No reimbursement recommended
10/16/02	97250	43.00	0.00	D	43.00	MFG, MGR (I)(11)(C)(3)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$43.00
10/16/02	97110	35.00	0.00	D	35.00	MFG, MGR (I)(A)(9)(b)	*See rational below. No reimbursement recommended
10/16/02	97110	35.00	0.00	D	35.00		
10/16/02	99213	48.00	0.00	D	48.00	MFG, MGR (I)(B)(1)(b)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$48.00
11/27/02	97035	22.00	0.00	D	22.00	MFG, MGR (I)(a)(iii)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$22.00
11/27/02	97250	43.00	0.00	D	43.00	MFG, MGR (I)(11)(C)(3)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$43.00

11/27/02	97110	35.00	0.00	D	35.00	MFG, MGR (I)(A)(9)(b)	*See rational below. No reimbursement recommended
11/27/02	97110	35.00	0.00	D	35.00		
11/27/02	97110	35.00	0.00	D	35.00		
11/27/02	99213	48.00	0.00	D	48.00	MFG, MGR (I)(B)(1)(b)	SOAP notes support delivery of service. Reimbursement recommended in the amount of \$48.00
TOTAL		\$1065.00					The requestor is entitled to reimbursement of \$565.00

* 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 has reviewed the matters in light all of the Commission requirements for proper documentation. The MDR declines to order payment because: the soap notes do not clearly delineate the severity of the injury to warrant exclusive one on one treatment.

ORDER.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 for dates of service 8-02-02 through 01-17-03 in this dispute.

This Decision is hereby issued this 30th day of December 2003.

Georgina Rodriguez
 Medical Dispute Resolution Officer
 Medical Review Division

June 18, 2003

MDR Tracking #: M5 03 1987 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

This patient was injured at his workplace while driving a truck when he was struck from behind by a second vehicle. He had pain in the low back and initially sought care from ___, who prescribe anti-inflammatory and muscle relaxer medications. He later began treatment under the direction of ___. Treatment consisted of active and passive therapy beginning on April 9, 2002.

DISPUTED SERVICES

The carrier has disputed the medical necessity of mechanical traction, myofascial release, therapeutic exercises, ultrasound therapy, office visits with manipulations and special supplies from August 2-28th, September 5th and 6th, October 23rd-November 26 2002, and January 15-17th 2003.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

The documentation on this case shows no injury other than sprain/strain. While there is a written diagnosis of a radiculopathy, no electrodiagnostic studies or MRI are presented for review. The care rendered on this case was not demonstrated to have been effective on this patient and progress from this very extensive treatment was not evident. Also, the care that was rendered was mostly passive and passive therapy is not indicated in a case such as this after several months of treatment. Regardless, the requestor failed to prove that the care rendered was reasonable and necessary and as a result the reviewer is unable to disagree with the carrier's findings.

___ 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 ____, dba ____, 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.