

THIS DECISION HAS BEEN APPEALED. THE
 FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
 SOAH DOCKET NO. 453-04-4659.M5

MDR Tracking Number: M5-04-0009-01

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, 133.307 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 08-29-03.

The IRO reviewed therapeutic exercises, office visits, physical performance testing and range of motion testing rendered from 04-07-03 through 06-02-03 that was denied based upon "U".

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

On 11-24-03, 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\$	Reference	Rationale
4-2-03	97110	\$175.00 (5 units)	\$70.00	No EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement recommended.
4-2-03 through 5-1-03 (3 DOS)	97750- MT	\$43.00 (1 unit X 3 DOS)	\$0.00	G	\$43.00	96 MFG MED GR I (E)(3)	G –Not global to any other service billed on this date. The requestor submitted relevant information to support delivery of service. Recommend reimbursement in the amount of \$43.00 X 3 DOS = \$129.00
4-8-03 through 5-6-03 (3 DOS)	95851	\$36.00 (1 unit X 3 DOS)	\$0.00	G	\$36.00	96 MFG MED GR I (E)(4)	G – Not global to any other service billed on this date. The requestor submitted relevant information to

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
							support delivery of service. Recommend reimbursement in the amount of \$36.00 X 3 DOS = \$108.00
5-20-03	95851	\$36.00 (1 unit)	\$0.00	No EOB	\$36.00	Rule 133.307 (g)(3)(A-F)	No EOB – Requestor submitted relevant information to support delivery of service. Recommend reimbursement in the amount of \$36.00
6-2-03	97750-MT	\$43.00 (1 unit)	\$0.00	No EOB	\$43.00	Rule 133.307 (g)(3)(A-F)	No EOB – The requestor submitted relevant information to support delivery of service. Recommend reimbursement in the amount of \$43.00
TOTAL		\$491.00	\$70.00		\$491.00		The requestor is entitled to reimbursement in the amount of \$316.00

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 clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

This Decision is hereby issued this 15th day March 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

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 04-02-03 through 06-02-03 in this dispute.

This Order is hereby issued this 15th day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

Amended Letter
Note: Decision

November 20, 2003

Rosalinda Lopez
Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: MDR Tracking #: M5-04-0009-01
IRO Certificate #: IRO4326

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

Clinical History

This patient sustained a repetitive injury reported on ___, involving pain to her left wrist and hand, radiating to her forearm and elbow. A left wrist MRI dated 11/22/02 revealed a complex tear of the triangular fibrocartilage. Electrodiagnostic testing, on 11/13/02 and on 02/04/03, indicated carpal tunnel syndrome for which she had a release performed on 03/11/03.

Requested Service(s)

Therapeutic exercises, office visits, physical performance testing, and range of motion testing from 04/07/03 through 06/02/03

Decision

It is determined that the therapeutic exercises, physical performance evaluation (muscle testing), and range of motion testing from 04/07/03 to 05/07/03 and the office visit on 04/21/03 were medically necessary to treat this patient's condition. However, the therapeutic exercises, physical performance evaluation, and range of motion testing after 05/07/03 and the office visits from 04/07/03 through 04/17/03 and from 04/22/03 through 06/02/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

This patient began a course of post-surgical rehabilitation on 04/03/03. A review of the progress notes revealed evidence of an office visit on 04/21/03. The notes for the remainder of the visits gave a brief statement of the patient's subjective complaint for that date of service and a standardized, computer generated progress note entry for most dates of service. The visits for all dates except 04/21/03 were not medically necessary per the progress notes reviewed.

The therapeutic exercises for dates of service after 05/07/03 were not medically necessary as the medical records reviewed did not document that the treatments provided were therapeutic. A review of the subjective complaints revealed no change in the patient's complaints over the course of treatment and the medical records failed to provide objective documentation of the efficacy for the continuation of care after 05/07/03.

The use of the therapeutic exercises, physical performance evaluation, and range of motion testing were supported for the first month of treatment. Proventiali et al performed a randomized trial to assess the clinical evolution after carpal tunnel release in subjects with long-term carpal tunnel syndrome. The evaluation criteria were symptom occurrence, motor performance, and delay in returning to work. A total of 100 subjects were assessed four times (prior to surgery, and 12 days, 1 month, and 3 months after surgery) using the Boston carpal tunnel questionnaire, the nine-hole peg test (NHPT), and the Jebsen-Taylor test (JTT). Subjects were randomized to a rehabilitation program or to a progressive home exercise program. No difference in symptom occurrence between the two groups was detected after 1 and 3 months. One month after surgery, only patients in the first group showed motor dexterity improvement according to NHPT and JTT scores. At the 3-month follow-up, the two groups did not differ but the group undergoing rehabilitation showed a shorter return-to-work interval. A rehabilitation approach after hand surgery is clinically relevant to accelerate recovery but neither modifies functional recovery nor reduces symptom occurrence (*Provenciali L, Giattini A, Splendiani G, Logullo F., "Usefulness of hand rehabilitation after carpal tunnel surgery", Muscle Nerve 2000 Feb;23(2):211-6*). Therefore, it is determined that the therapeutic exercises, physical performance evaluation (muscle testing), and range of motion testing from 04/07/03 to 05/07/03 and the office visit on 04/21/03 were medically necessary to treat this patient's condition. However, the therapeutic exercises, physical performance evaluation, and range of motion testing after 05/07/03 and the office visits from 04/07/03 through 04/17/03 and from 04/22/03 through 06/02/03 were not medically necessary.

Sincerely,