

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

**SOAH DOCKET NO. 453-04-4486.M5**

MDR Tracking Number: M5-04-0044-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 9-3-03.

The IRO reviewed office visits, ultrasound, myofascial release, and therapeutic exercises from 9-3-02 through 3-14-03.

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.

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

On 11-18-03, 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: Services that were denied without an EOB will be reviewed per the 1996 *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
10/7/02 10/8/02 10/9/02 10/14/02	99213 97035 97110 (3)	\$68.00 x4 \$31.00 x4 \$147.00x4	\$0.00	No EOB	\$48.00 \$22.00 ea 15 min \$35.00 ea 15 min	Rule 133.307(g)(3) (A-F)	99213 and 97035. Daily notes support delivery of service. Recommend reimbursement of \$48.00 + \$22.00 = \$70.00 x 4 = \$280.00. 97110. See <b>RATIONALE</b> below.
TOTAL		\$984.00	\$0.00				The requestor is entitled to reimbursement of \$280.00.

**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 13<sup>th</sup> day of February 2004.

Dee Z. Torres  
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 Order is applicable for dates of service 9-3-02 through 3-14-03 in this dispute.

This Order is hereby issued this 13th day of February 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

November 14, 2003

**NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-04-0044-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker’s Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier’s adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the \_\_\_ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The \_\_\_ chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

### Clinical History

This case concerns a 33 year-old male who sustained a work related injury on \_\_\_\_. The patient reported that while at work he fell out of his company truck twisting his left knee. The patient underwent X-Rays and an MRI. The diagnoses for this patient included left knee internal derangement and left knee inflammation. The patient has undergone a left knee arthroscopy on 5/22/02. Postoperatively the patient was treated with rehabilitation from 7/02 through 8/02. The patient reported that he continued to experience weakness and tenderness in his left knee. The patient then changed providers on 8/9/02 and began treatment that included chiropractic care in conjunction with physical medicine modalities. The patient also underwent an orthopedic evaluation, an NCV test and MRI of the right knee and cervical spine.

### Requested Services

Office visits, ultrasound, myofascial release and therapeutic exercises from 9/03/02 through 03/14/03.

### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

### Rationale/Basis for Decision

The \_\_\_ chiropractor reviewer noted that this case concerns a 33 year-old male who sustained a work related injury to his left knee on \_\_\_\_. The \_\_\_ chiropractor reviewer also noted that the diagnosis for this patient was left knee internal derangement and left knee inflammation. The \_\_\_ chiropractor reviewer further noted that the treatment for this patient's condition included a left knee arthroscopy on 5/22/02, postoperative rehabilitation and chiropractic care in conjunction with physical medicine modalities. The \_\_\_ chiropractor reviewer explained that although the patient's relief from treatment was not complete, the patient did respond to treatment. The \_\_\_ chiropractor reviewer also explained that the patient's condition postoperatively did warrant continued treatment. Therefore, the \_\_\_ chiropractor consultant concluded that the office visits, ultrasound, myofascial release and therapeutic exercises from 9/03/02 through 03/14/03 were medically necessary to treat this patient's condition.

Sincerely,