

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

**SOAH DOCKET NO. 453-04-5737.M5**

MDR Tracking Number: M5-04-0281-01

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 09-30-03.

The IRO reviewed office visits, ultrasound therapy, electrical stimulation, hot or cold pack therapy and therapeutic exercises rendered from 10-29-02 through 11-18-02 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 12-02-03, 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:

<b>DOS</b>	<b>CPT CODE</b>	<b>Billed</b>	<b>Paid</b>	<b>EOB Denial Code</b>	<b>MARS</b>	<b>Reference</b>	<b>Rationale</b>
10-8-02	A4556	\$50.00	\$0.00	G	DOP	96 MFG DME GR VIII	G- Not global to any other service billed on DOS. Requestor submitted relevant information to meet documentation criteria. Reimbursement recommended in amount of \$50.00
10-9-02	99213	\$360.00	\$244.80	F,C	\$48.00	96 MFG E/M GR	C- Carrier denied as

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
through 11-15-02 (6 DOS)		(1 unit @ \$60.00 X 6 DOS)	(\$40.80 per DOS X 6 DOS)			(VI)(B)	negotiated contract price. Requestor did not challenge denial. Neither party submitted proof of negotiated contract. No additional reimbursement recommended.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
10-9-02 through 11-15-02 (4 DOS)	97035	\$104.00 (1 unit @ 26.00 X 4 DOS)	\$74.80 (\$18.70 per DOS X 4 DOS)	F,C	\$22.00	96 MFG MED GR (I)(9)(a)(iii)	C- Carrier denied as negotiated contract price. Requestor did not challenge denial. Neither party submitted a copy of the negotiated contract. No additional reimbursement recommended.
10-09-02 through 11-15-02 (5 DOS)	97014	\$90.00 (1 unit @ 18.00 X 5 DOS)	\$63.75 (\$12.75 per DOS X 5 DOS)	F,C	\$15.00	96 MFG MED GR (I)(9)(a)(ii)	C- Carrier denied as negotiated contract price. Requestor did not challenge denial. Neither party submitted a copy of the negotiated contract. No additional reimbursement recommended.
10-9-02 through 11-15-02 (5 DOS)	97010	\$75.00 (1 unit @ \$15.00 X 5 DOS)	\$46.75 (\$9.35 per DOS X 5 DOS)	F,,C	\$11.00	96 MFG MED GR (I)(9)(a)(ii)	C- Carrier denied as negotiated contract price. Requestor did not challenge denial. Neither party submitted a copy of the negotiated contract. No additional reimbursement recommended.
11-11-02 through 11-15-02 (2 DOS)	97110	\$80.00 (1 unit @ \$40.00 X 2 DOS)	\$59.50 (\$29.75 per DOS X 2 DOS)	F,C	\$35.00	96 MFG MED GR (I)(9)(b)	C- Carrier denied as negotiated contract price. Requestor did not challenge denial. Neither party submitted a copy of the negotiated contract. No additional reimbursement recommended.
12-3-02	99211	\$21.00	\$15.30	F,C	\$18.00	96 MFG E/M GR	C- Carrier denied as

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
		(1 unit)				(VI)(B)	negotiated contract price. Requestor did not challenge denial. Neither party submitted a copy of the negotiated contract. No additional reimbursement recommended.
1-15-03	99080	\$70.50	\$0.00	F	DOP	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to meet documentation criteria. Reimbursement recommended in amount of \$70.50
1-29-03	99080-73	\$20.00	\$0.00	F	\$15.00	Rule 133.106(f)	Requestor submitted relevant information to meet documentation criteria. Reimbursement recommended in amount of \$15.00
TOTAL		\$870.50	\$504.90		\$734.50		The requestor is entitled to reimbursement in the amount of \$135.50

**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 10-08-02 through 01-29-03 in this dispute.

This Order is hereby issued this 31<sup>st</sup> day of March 2004.

Debra L. Hewitt  
 Medical Dispute Resolution Officer  
 Medical Review Division  
 DLH/dlh

November 20, 2003  
**Amended March 24, 2004**

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

MDR Tracking #: M5-04-0281-01

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.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). 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

\_\_\_ a 52-year-old female, sustained an on the job injury to her right knee while working as a teacher/child care for \_\_\_. She was standing behind her child when the child pushed his chair back, striking her left knee anteriorly. This caused the patella to "dislocate" sideways, and it was subsequently self-reduced by the patient. She presented to the \_\_\_ on 10/8/02 and was evaluated as having a left patella dislocation, quadriceps strain and patellar tendinitis by \_\_\_, a chiropractor. There was also felt to be some additional damage to the left knee meniscus, an area that had previously been injured in a separate work-related incident in April of 2001. She was subsequently followed by \_\_\_ also a chiropractor, and placed on a conservative care program consisting of various physiotherapeutic modalities, progressing to exercise program. She was also apparently prescribed a home tens/electrical stim unit along with electrodes. She was out of work until the end of December. She had a MRI performed on 10/29/02, which identified a small area of osteochondritis dissecans and a tear of the posterior horn of the medial meniscus, both unchanged from a previous MRI study of 5/21/01. There was also some synovial effusion noted. The patient was referred to \_\_\_ an orthopedic surgeon on 11/19/02 who noted significant objective findings of left knee injury. He felt that she had chondromalacia patella, left meniscus tear and arthritis. He recommended arthroscopy, medial meniscectomy and a lateral release. The surgery was not completed and the patient continued with care progressing to more exercise based program. The patient improved significantly with this course of care and was released with a 0% whole person impairment on 4/14/03.

#### DISPUTED SERVICES

Under dispute is the medical necessity of office visits, ultrasound therapy, electrical stimulation, hot/cold packs and therapeutic exercises provided from 10/29/02 through 11/18/02.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The patient was seen and subsequently treated for a direct trauma injury to the left patella. A complicating issue in the case was that this was superimposed upon a previous work-related injury to the same area, dating back to \_\_\_\_\_. Objective findings of pain, swelling, limited range of motion and functional compromise were noted by the attending provider, verified independently by referral sources. There were positive findings observed on MRI. The patient was placed in an appropriate therapeutic program consisting of physiotherapeutic modalities, progressing to a more active exercise program. Surgery was recommended but not completed and the patient continued with care. This was successful in resolving the patient's complaints and she was discharged with a 0% impairment rating in April 2003.

The documentation more than adequately supports the medical necessity of these services. There is no rationale provided as to why this care was denied by the carrier and the reviewer finds absolutely no reason why this care was deemed neither reasonable nor necessary.

\_\_\_\_\_ 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 \_\_\_\_\_, 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,