

MDR Tracking Number: M5-04-0288-01

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 09-29-03.

The IRO reviewed office visits, gait training, therapeutic procedures, neuromuscular re-education, fluidotherapy, electrical stimulation, iontophoresis, ultrasound therapy, unlisted modality and special reports rendered from 11-25-02 through 04-21-03 that was denied based upon "U" and "V".

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with 133.308(r) (2)(c), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
3-17-03 through 4-21-03 (5 DOS)	97110	\$350.00 (2 units @ \$70.00 X 5 DOS)	\$0.00	V	\$35.00	IRO decision	Reimbursement recommended in the amount of \$70.00 (2 units) X 5 DOS = \$350.00
3-17-03 through 4-21-03 (5 DOS)	97112	\$350.00 (2 units @ \$70.00 X 5 DOS)	\$0.00	V	\$35.00	IRO decision	Reimbursement recommended in the amount of \$35.00 (1 unit) X 5 DOS = \$175.00
3-17-03 through 4-21-03 (5 DOS)	97116	\$380.00 (2 units @ \$76.00 X 5 DOS)	\$0.00	V	\$38.00	IRO decision	Reimbursement recommended in the amount of \$38.00 (1 unit) X 5 DOS = \$190.00
11-25-02 through 4-21-03 (10 DOS)	99213	\$500.00 (1 unit @ \$50.00 X 10 DOS)	\$0.00	V	\$48.00	IRO decision	No reimbursement recommended.
11-25-02 through 12-18-02 (5 DOS)	97014	\$75.00 (1 unit @ \$15.00)	\$0.00	V	\$15.00	IRO decision	No reimbursement recommended

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DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
11-25-02 through 12-18-02 (4 DOS)	97033	\$88.00 (1 unit @ \$22.00 X 4 DOS)	\$0.00	V	\$22.00	IRO decision	No reimbursement recommended.
11-25-02 through 12-18-02 (5 DOS)	97110	\$350.00 (2 units @ \$70.00 X 5 DOS)	\$0.00	V	\$35.00	IRO decision	No reimbursement recommended.
11-25-02 through 12-18-02 (5 DOS)	97112	\$350.00 (2 units @ \$70.00 X 5 DOS)	\$0.00	V	\$35.00	IRO decision	No reimbursement recommended.
12-9-02	97035	\$22.00 (1 unit)	\$0.00	V	\$22.00	IRO decision	No reimbursement recommended.
3-17-03 and 3-19-03 (2 DOS)	97039-FT	\$40.00 (1 unit @ \$20.00 X 2 DOS)	\$0.00	V	DOP	IRO decision	No reimbursement recommended.
3-19-03	97014-76	\$15.00 (1 unit)	\$0.00	V	15.00	IRO decision	No reimbursement recommended.
4-16-03 through 4-21-03 (3 DOS)	97530	\$210.00 (2 units @ \$70.00 X 3 DOS)	\$0.00	V	\$35.00	IRO decision	No reimbursement recommended.
TOTAL		\$2,730.00					The requestor is entitled to reimbursement of \$715.00

The IRO concluded that two units of therapeutic procedure (97110), one unit of neuromuscular education (97112) and one unit of gait training (97116) for dates of service 03-17-03 through 04-21-03 **were** medically necessary. The IRO concluded that all other treatments and procedures from 11-25-02 through 04-21-03 were **not** medically necessary.

On this basis, the total amount recommended for reimbursement (\$715.00) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 11-21-03, 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
10-22-02	99214	\$95.00 (1 unit)	\$0.00	NO EOB	\$71.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
10-24-02 and 5-13-03	95851	\$150.00 (1 unit @ \$50.00 X 3 units)	\$0.00	F	\$36.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
11-23-02 and 3-11-03 (2 DOS)	99080	\$30.00 (1 unit @ \$15.00 X 2 DOS)	\$0.00	F	\$15.00	Rule 133.106(f)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
11-27-02 through 8-14-03 (8 DOS)	99213	\$400.00 (1 unit @ \$50.00 X 8 DOS)	\$0.00	F	\$48.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
11-27-02 through 12-20-02 (3 DOS)	97014	\$45.00 (1 unit @ \$15.00 X 3 DOS)	\$0.00	F	\$15.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
11-27-02	97035	\$22.00 (1 unit)	\$0.00	F	\$22.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
11-27-02 through 12-20-02 (3 DOS)	97110	\$210.00 (2 units @ \$70.00 X 3)	\$0.00	F	\$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement recommended.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
		DOS)					

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
11-27-02 through 12-20-02 (3 DOS)	97112	\$210.00 (2 units @ \$70.00 X 3 DOS)	\$0.00	F	\$35.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-2-02	97033	\$22.00 (1 unit)	\$0.00	F	\$22.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-20-02	97016	\$24.00 (1 unit)	\$0.00	F	\$24.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-23-02 through 6-25-03 (5 DOS)	99213	\$250.00 (1 unit @ \$50.00 X 5 DOS)	\$0.00	NO EOB	\$48.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-23-02 through 6-9-03 (4 DOS)	97014	\$60.00 (1 unit @ \$15.00 X 4 DOS)	\$0.00	NO EOB	\$15.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-23-02	97033	\$22.00 (1 unit)	\$0.00	NO EOB	\$22.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-23-02 through 6-9-03 (4 DOS)	97110	\$280.00 (2 units @ \$70.00 X 4 DOS)	\$0.00	NO EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-23-02 through 6-9-03 (4 DOS)	97112	\$280.00 (2 units @ \$70.00 X 4 DOS)	\$0.00	NO EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
4-2-03 through 6-18-03 (9 DOS)	99213	\$450.00 (1 unit @ \$50.00 X 9)	\$176.10 (\$35.22 X 5 DOS)	C	\$48.00	96 MFG E/M GR (VI)(B) Rule 133.307 (g)(3)(A-F)	Requestor submitted proof of termination of PPO contract prior to DOS. Requestor did not submit relevant information to support

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
		DOS)					delivery of service. No additional reimbursement recommended.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
4-2-03 through 4-11-03 (3 DOS)	97039-FT	\$60.00 (1 unit @ \$20.00 X 3 DOS)	\$48.00 (\$16.00 X 3 DOS)	C	DOP	96 MFG MEDICINE GR (I)(9)(a)(iii) Rule 133.307 (g)(3)(A-F)	Requestor submitted proof of termination of PPO contract prior to DOS. Requestor did not submit relevant information to support delivery of service. No additional reimbursement recommended.
4-2-03 through 5-9-03 7 DOS)	97110	\$490.00 (2 units @ \$70.00 X 7 DOS)	\$297.50 (\$59.50 X 5 DOS)	C	\$35.00	96 MFG MEDICINE GR (I)(9)(b) Rule 133.307 (g)(3)(A-F)	See rationale below. No additional reimbursement recommended.
4-2-03 through 5-9-03 (5 DOS)	97112	\$350.00 (2 units @ \$70.00 X 5 DOS)	\$270.60 (\$54.12 X 5 DOS)	C	\$35.00	96 MFG MEDICINE GR (I)(9)(b) Rule 133.307 (g)(3)(A-F)	Requestor submitted proof of termination of PPO contract prior to DOS. Requestor did not submit relevant information to support delivery of service. No additional reimbursement recommended.
4-2-03 through 5-9-03 (7 DOS)	97116	\$532.00 (2 units @ \$76.00 X 7 DOS)	\$275.40 (\$55.08 X 5 DOS)	C	\$38.00	96 MFG MEDICINE GR (I)(9)(b) Rule 133.307 (g)(3)(A-F)	Requestor submitted proof of termination of PPO contract prior to DOS. Requestor did not submit relevant information to support delivery of service. No additional reimbursement recommended.
4-7-03	97039-FT	\$20.00 (1 unit)	\$0.00	N	DOP	96 MFG MEDICINE GR (I)(9)(a)(iii)	Requestor did not submit relevant documentation to meet documentation criteria. No reimbursement recommended.
4-7-03	97112	\$70.00 (2 units)	\$0.00	N	\$35.00	96 MFG MEDICINE GR (I)(9)(b)	Requestor did not submit relevant documentation to meet documentation criteria. No reimbursement recommended.
4-7-03	97116	\$76.00 (2 units)	\$0.00	N	\$38.00	96 MFG MEDICINE GR (I)(9)(b)	Requestor did not submit relevant documentation to meet documentation

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
							criteria. No
4-9-03 through 4-28-03 (4 DOS)	99213	\$200.00 (1 unit @ \$50.00 X 4 DOS)	\$0.00	R	\$48.00	96 MFG E/M GR (VI)(B)	R- Denied for extent of injury. Compensability resolved 10-17-02 by BRC. Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
4-9-03	97039-FT	\$20.00 (1 unit)	\$0.00	R	DOP	96 MFG MEDICINE GR (I)(9)(a)(iii)	R- Denied for extent of injury. Compensability resolved 10-17-02 by BRC. Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
4-9-03 through 4-28-03 (4 DOS)	97110	\$280.00 (2 units @ \$70.00 X 4 DOS)	\$0.00	R	\$35.00	96 MFG MEDICINE GR (I)(9)(b)	R- Denied for extent of injury. Compensability resolved 10-17-02 by BRC. See rationale below. No reimbursement recommended.
4-9-03 through 4-28-03 (4 DOS)	97112	\$280.00 (2 units @ \$70.00 X 4 DOS)	\$0.00	R	\$35.00	96 MFG MEDICINE GR (I)(9)(b)	R- Denied for extent of injury. Compensability resolved S- 10-17-02 by T- BRC. Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
4-9-03 through 4-28-03 (4 DOS)	97116	\$304.00 (2 units @ \$76.00 X 4 DOS)	\$0.00	R	\$38.00	96 MFG MEDICINE GR (I)(9)(b)	R- Denied for extent of injury. Compensability resolved S- 10-17-02 by T- BRC. Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
4-10-03	97750-FC	\$200.00 (1 unit)	\$0.00	D	\$200.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
4-11-03 through 6-11-03 (3 DOS)	99080-73	\$45.00 (1 unit @ \$15.00 X 3)	\$12.00 (paid on DOS 4-11-03)	C	\$15.00	Rule 133.106(f)	Requestor submitted proof of termination of PPO contract prior to DOS. Requestor did not submit relevant information to support delivery of service. No additional reimbursement

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
		DOS)					recommended.
4-23-03 and 4-28-03 (2 DOS)	97014-76	\$30.00 (1 unit @ \$15.00 X 2 DOS)	\$0.00	R	\$15.00	96 MFG MEDICINE GR (I)(9) (a)(ii)	R- Denied for extent of injury. Compensability resolved 10-17-02 by BRC. Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
4-23-03 through 4-28-03 (3 DOS)	97530	\$210.00 (2 units @ \$70.00 X 3 DOS)	\$0.00	R	\$35.00	96 MFG MEDICINE GR (I)(11) (b)	R- Denied for extent of injury. Compensability resolved 10-17-02 by BRC. Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
4-7-03	97110	\$70.00 (1 unit @ \$35.00 X 2 units)	\$0.00	N	\$35.00	96 MFG MEDICINE GR (I)(9)b)	See rationale below. No reimbursement recommended.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
5-2-03 through 5-9-03 (4 DOS)	97530	\$280.00 (2 units @ \$70.00 X 4 DOS)	\$112.00	C	\$35.00	96 MFG MEDICINE GR (I)(11)(b)	Requestor submitted proof of termination of PPO contract prior to DOS. Requestor did not submit relevant information to support delivery of service. No additional reimbursement recommended.
5-7-03	97014-76	\$15.00 (1 unit)	\$0.00	C	\$15.00	96 MFG MEDICINE GR (I)(9) (a)(ii)	Requestor submitted proof of termination of PPO contract prior to DOS. Requestor did not submit relevant information to support delivery of service. No I reimbursement recommended.
6-3-03	97750	\$172.00 (4 units)	\$0.00	C	\$43.00	96 MFG MEDICINE GR (I)(E)(2)	Requestor submitted proof of termination of PPO contract prior to DOS. Requestor did not submit relevant information to support delivery of service. No I reimbursement recommended.
6-5-03 through 6-9-03 (3 DOS)	97116	\$228.00 (2 units @ \$76.00 X 3 DOS)	\$0.00	NO EOB	\$38.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
8-7-03	98941	\$46.00 (1 unit)	\$0.00	F	\$40.05	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
8-21-03	99078	\$200.00	\$0.00	F	DOP	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
							recommended.
TOTAL		\$6,728.00	\$1,191.60				The requestor is not entitled to any reimbursement.

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.

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 10-22-02 through 08-21-03 in this dispute.

This Findings and Decision and Order are hereby issued this 29th day of April 2004.

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

REVISED 4/15/04

November 12, 2003
 IRO Certificate# 5259

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

CLINICAL HISTORY

After an injury on ___, patient received extensive physical medicine treatments both before and after surgeries to both knees.

REQUESTED SERVICE (S)

Office visits, gait training, therapeutic procedures, neuromuscular education, fluidotherapy, electrical stimulation, iontophoresis, ultrasound therapy, unlisted modality and special reports from 11/25/02 through 4/21/03.

DECISION

Post surgical rehabilitation treatment consisting of two units of therapeutic procedure (97110), one unit of neuromuscular education (97112) and one unit of gait training (97116) for the dates of service from 3/17/03 through 4/21/03 are approved. All other treatments and procedures from 11/25/02 through 4/21/03 are denied.

RATIONALE/BASIS FOR DECISION

The physician's records fail to document the medical necessity for the treatments rendered or that they were in any way beneficial to the patient. Nevertheless, it is reasonable to assume that post-surgical rehabilitation therapy (consisting of two units of therapeutic procedure, one unit of neuromuscular education and one unit of gait training) would be appropriate during the period from 3/17/03 through 4/21/03.