

MDR Tracking Number: M5-04-0458-01

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 10-14-03.

The IRO reviewed range of motion measurements, therapeutic exercises, office visits outpatient, subsequent visits rendered from 05-12-03 through 07-17-03 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 12-31-03, 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
5-12-03 and 7-9-03 (2 DOS)	99213	\$96.00 (1 unit @ \$48.00 X 2 DOS)	\$0.00	NO EOB	\$48.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$48.00 X 2 DOS = \$96.00
5-12-03	97265	43.00 (1 unit)	\$0.00	NO EOB	\$43.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$43.00
5-12-03	97250	\$43.00 (1 unit)	\$0.00	NO EOB	\$43.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$43.00

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
5-12-03 and 7-9-03	97110	\$385.00 (\$175.00 5 units @ \$35.00 and \$210.00 6 units @ \$35.00	\$0.00	NO EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement recommended.
5-13-03 through 7-8-03 (3 DOS)	97750-MT	\$258.00 (2 units @ \$86.00 X 3 DOS)	\$0.00	NO EOB	\$43.00	Rule 133.307 (g)(3)(A-F)	The requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$86.00 X 3 DOS = \$258.00
5-28-03 through 7-3-03 (3 DOS)	95851	\$108.00 (1 unit @ \$36.00 X 3 DOS)	\$0.00	NO EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	The requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$36.00 X 3 DOS = \$108.00
TOTAL		\$933.00	\$0.00				The requestor is entitled to reimbursement in the amount of \$548.00

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 19th day of April 2004.

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

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 05-12-03 through 07-17-03 in this dispute.

This Order is hereby issued this 19th day of April 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

December 17, 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 #: M5-04-0458-01
IRO Certificate #: IRO 4326

___ 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 an injury reported on ____ while performing his job duties which include repetitive moderate heavy lifting. He was carrying an object, lost his balance, and fell, hitting his left knee. The patient underwent a surgical arthroscopy of his left knee on 06/03/03. He received chiropractic treatment and physical therapy both pre and post operatively.

Requested Service(s)

Range of motion (ROM) measurements, therapeutic exercise, office visit, outpatient visit, and subsequent visit from 05/12/03 through 07/17/03

Decision

It is determined that the range of motion (ROM) measurements, therapeutic exercise, office visit, outpatient visit, and subsequent visit from 05/12/03 through 07/17/03 were medically necessary to treat this patient's condition.

Rationale/Basis for Decision

This patient saw an employer-referred physician on ____, one day after the date of injury. This physician diagnosed the patient with left knee contusion, stating that his reported pain was inconsistent with the objective physical exam and x-ray findings. The physician placed the patient at maximum medical improvement (MMI) as of 05/09/03 with a 0% impairment rating. The patient then saw a chiropractor and had an MRI performed on 05/19/03, which revealed a joint effusion, possible loose bodies in the joint space, and a partial tear of the medial meniscus. He was started on physiotherapeutics to his left knee and ankle and was referred to an orthopedic surgeon. He underwent a left knee arthroscopy on 06/03/03 for anterior cruciate ligament (ACL) tear repair, partial medial meniscectomy, chondroplasty, synovectomy, and removal of loose bodies. The patient had post operative physical therapy with his chiropractor. On 06/13/03, a designated doctor examination (DDE) was performed in which the patient was not found to be at MMI and that eight to 12 weeks of post-surgical rehabilitation was required. The reviewed medical record supports the provider's rationale for pre and post physiotherapeutics in the treatment of this patient's medical condition. Therefore, it is determined that the range of motion (ROM) measurements, therapeutic exercise, office visit, outpatient visit, and subsequent visit from 05/12/03 through 07/17/03 were medically necessary.

The aforementioned information has been taken from the following guidelines of clinical practice and clinical references:

- *Knee pain or swelling: acute or chronic.* University of Michigan Health System; 2002 Aug. 13 p.
- *Criteria for knee surgery.* Washington State Department of Labor and Industries; 1999 Jun. 1p.

Sincerely,