

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-04-6345.M5

MDR Tracking Number: M5-04-0595-01

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 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 10-27-03.

The IRO reviewed therapeutic exercises and office visits rendered from 06-04-03 through 06-30-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity for therapeutic exercises and office visits. 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.

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 01-05-04, 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\$ (Maximum Allowable Reimbursement)	Reference	Rationale
06-04-03	95851	\$72.00	0.00	F	\$36.00	MFG, MGR (I)(E)(4)	Report submitted confirms delivery of service. Recommended Reimbursement \$72.00

06-17-03	97110 (6 units)	\$210.00	0.00	No EOB	\$35.00 per unit	MFG, MGR (I)(A)(9)(b)	See Rationale Below
	99213	\$48.00	0.00		\$48.00	MFG, E & M GR(IV)(C)(2)	Soap notes confirm delivery of service. Recommended Reimbursement \$48.00
06-18-03	97110 (6 units)	\$210.00	0.00		\$35.00 per unit	MFG, MGR (I)(A)(9)(b)	See Rationale Below
	99213	\$48.00	0.00		\$48.00	MFG, E & M GR(IV)(C)(2)	Soap notes confirm delivery of service. Recommended Reimbursement \$48.00
TOTAL		\$588.00					The requestor is entitled to reimbursement of \$168.00

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 has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. Additional reimbursement not recommended.

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 06-04-03, 06-17-03, and 06-18-03 in this dispute.

This Decision is hereby issued this 4th day of May 2004.

Georgina Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

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NOTICE OF INDEPENDENT REVIEW DECISION

December 31, 2003

Re: IRO Case # M5-04-0595 amended

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic, who is licensed by the State of Texas, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting 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 referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient injured her left ankle and left knee when she slipped and lost her balance on ice in a freezer. She was initially treated with conservative management. On 4/8/03 the patient underwent arthroscopy of the right knee, chondroplasty of medial femoral condyle and chondroplasty of the patella. The patient's treating D.C. provided operative rehabilitation.

Requested Service(s)

Therapeutic exercises, office visit 6/4/03-6/30/03

Decision

I agree with the carrier's decision to deny the requested services.

Rational

The patient had an adequate trail of conservative therapy that failed to be beneficial after her right knee surgery on 4/8/03. After four weeks of unsuccessful therapy, an orthopedic surgeon initiated Hyalgan injections and stated that the patient had "significant grade 3/4 chondromalacia of the patella and medial femoral condyle." The injection also failed to be beneficial, yet the failed treatment plan was continued for several more weeks. On 6/6/03 the patient's surgeon had determined that conservative treatment had failed and was preparing the patient for further surgery, yet the failed course of treatment continued. The treatment notes are repetitive and lack objective, quantifiable findings to support treatment. Even though treatment was failing, the same exercises were continued on each visit. On 7/22/03, some three and one half months post op, the treating D.C. noted that, "the left knee pain has been unrelieved, no significant change is reported." Yet the same treatment continued. The initial post operative rehabilitation program was reasonable and necessary through 5/20/03. After that date, the records do not support further conservative treatment.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.