

MDR TRACKING#: M5-04-0710-01

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 11-5-03.

The IRO reviewed office visits, special reports, range of motion measurements, muscle testing, physical performance test, joint mobilization, myofascial release, therapeutic procedures, therapeutic exercises, electrical stimulation-unattended, massage therapy, mechanical traction, diathermy rendered from 2-6-03 to 5-6-03 that were denied based upon “V”.

The IRO concluded that therapeutic procedures were not medically necessary. The IRO concluded that one session of muscle testing (97750) a month was medically necessary from 2-6-03 through 5-6-03. The IRO also concluded that extended office visit, office visits, special reports, range of motion measurements, physical performance test, joint mobilization, myofascial release, electrical stimulation-unattended, massage therapy, mechanical traction, diathermy rendered from 2-6-03 to 5-6-03 were medically necessary.

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(q)(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	MAR\$ (Maximum Allowable Reimbursement)	Medically Necessary	Not Medically Necessary
2-6-03 4-1-03	99214	\$75.00	\$71.00	\$71.00 X 2 = \$142.00	
2-6-03 4-1-03	99080-73	\$15.00	\$15.00	\$15.00 X 2 = \$30.00	
2-6-03 4-1-03	95851	\$40.00	\$36.00	\$36.00 X 2 = \$72.00	
2-6-03 3-14-03 4-3-03	97750MT(4)	\$172.00 \$86.00 \$172.00	\$43.00 / body area	\$172.00 \$86.00 \$172.00	
2-12-03 2-14-03 2-17-03 2-19-03 2-21-03 2-24-03 3-3-03 3-5-03 3-7-03	99213	\$50.00	\$48.00	\$48.00 X 19 = \$912.00	

3-10-03 3-12-03 3-17-03 3-19-03 3-21-03 3-24-03 3-27-03 4-8-03 4-9-03 5-6-03					
2-12-03 2-14-03 2-17-03 2-19-03 2-21-03 2-24-03 3-3-03 3-5-03 3-7-03 3-10-03 3-12-03 3-17-03 3-19-03 3-21-03 3-24-03 3-27-03 4-8-03 5-6-03	97265	\$43.00	\$43.00	\$43.00 X 18 = \$774.00	
2-12-03 2-14-03 2-17-03 2-19-03 2-21-03 2-24-03 3-3-03 3-5-03 3-7-03 3-10-03 3-12-03 3-17-03 3-19-03 3-21-03 3-24-03 3-27-03 4-8-03 5-6-03	97250	\$43.00	\$43.00	\$43.00 X 18 = \$774.00	
2-12-03 2-17-03 2-19-03 2-21-03 2-24-03 3-3-03 3-5-03 3-7-03 3-10-03 3-12-03	97150	\$27.00	\$27.00	\$27.00 X 14 = \$378.00	

3-17-03 3-19-03 3-21-03 3-24-03					
2-12-03 3-5-03 3-10-03	97110(8)	\$280.00	\$35.00 / 15 min		\$280.00 X 3 = \$840.00
2-14-03 2-17-03 2-19-03 3-7-03 3-19-03 3-21-03 3-24-03	97110(5)	\$175.00	\$35.00 / 15 min		\$175.00 X 7 = \$1225.00
2-21-03 3-12-03	97110(6)	\$210.00	\$35.00 / 15 min		\$210.00 X 2 = \$420.00
2-24-03 3-3-03 3-17-03	97110(7)	\$245.00	\$35.00 / 15 min		\$245.00 X 3 = \$735.00
2-26-03	97750MT(4)	\$172.00	\$43.00 / body area		\$172.00
4-9-03	97014	\$17.00	\$15.00	\$15.00	
4-9-03	97124	\$20.00	\$20.00	\$20.00	
5-6-03	97012	\$20.00	\$20.00	\$20.00	
5-6-03	97024	\$25.00	\$21.00	\$21.00	
TOTAL				\$3588.00	\$3392.00

Consequently, the commission has determined that **the requestor prevailed** on the majority of the medical fees (\$3588.00). 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.

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 February 3, 2004, 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:

No EOB: Neither party in the dispute submitted EOBs for some of the disputed services identified above. Since the insurance carrier did not raise the issue in their response that they had not had the opportunity to audit these bills and did not submit copies of the EOBs, the Medical Review Division will review these services per *Medical Fee Guideline*.

On 2-18-03 a Benefit Review Conference was held and the parties agreed that claimant sustained a compensable low back injury; therefore, EOB denial of "R" was inappropriate. The disputed services will be reviewed in accordance with the *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale	
11-18-02	99205	\$160.00	\$0.00	R	\$137.00	BRC Agreement CPT Code Descriptor	MAR reimbursement of \$137.00 is recommended.	
11-18-02	99070	\$18.33	\$0.00	R	DOP		MAR reimbursement of \$18.33 is recommended.	
11-18-02	99070	\$8.00	\$0.00	R	DOP		MAR reimbursement of \$8.00 is recommended.	
11-21-02	99070	\$25.00	\$0.00	R	DOP		MAR reimbursement of \$25.00 is recommended.	
1-3-03	99070	\$69.90	\$0.00	R	DOP		MAR reimbursement of \$69.90 is recommended.	
1-23-03	99070	\$30.00	\$0.00	R	\$25.00		MAR reimbursement of \$25.00 is recommended.	
11-21-02 11-22-03 12-2-02 12-3-02 12-4-02 12-5-02 12-6-02 12-9-02 12-10-02 12-11-02 12-12-02 12-13-02 12-19-03 12-27-03 12-30-03 12-31-02 1-3-03 1-6-03 1-10-03 1-13-03 1-15-03 1-17-03 1-20-03 1-24-03 1-27-03 1-29-03 1-31-03	99213	\$50.00	\$0.00	R	\$48.00		MAR reimbursement of \$48.00 X 27 date = \$1296.00 is recommended.	
11-21-02	72114WP	\$156.00	\$0.00	R	\$151.00		MAR reimbursement of \$151.00 is recommended.	
11-21-02 11-22-03 12-2-02 12-3-02	97265	\$43.00	\$0.00	R	\$43.00		BRC Agreement CPT Code Descriptor	MAR reimbursement of \$43.00 X 27 date = \$1161.00 is recommended.

12-4-02 12-5-02 12-6-02 12-9-02 12-10-02 12-11-02 12-12-02 12-13-02 12-27-03 12-30-03 12-31-02 1-3-03 1-6-03 1-10-03 1-13-03 1-15-03 1-17-03 1-20-03 1-22-03 1-24-03 1-27-03 1-29-03 1-31-03							
11-21-02 11-22-03 12-2-02 12-3-02 12-4-02 12-5-02 12-6-02 12-9-02 12-10-02 12-11-02 12-12-02 12-13-02 12-27-03 12-30-03 12-31-02 1-3-03 1-6-03 1-10-03 1-13-03 1-15-03 1-17-03 1-20-03 1-22-03 1-31-03	97250	\$43.00	\$0.00	R	\$43.00	BRC Agreement CPT Code Descriptor Medicine GR (I)(A)(9)(b)	MAR reimbursement of \$43.00 X 24 date = \$1032.00 is recommended.
11-21-02 12-2-02	97124	\$20.00	\$0.00	R	\$20.00		MAR reimbursement of \$20.00 X 2 dates = \$40.00 is recommended.
11-21-02 11-22-03 12-2-02 12-9-02	97024	\$25.00	\$0.00	R	\$21.00		MAR reimbursement of \$21.00 X 4 dates = \$84.00 is recommended.
11-22-02 12-9-04	97014	\$17.00	\$0.00	R	\$15.00		MAR reimbursement of \$15.00 X 2 dates = \$30.00 is recommended.

12-3-02 12-4-02 12-5-02 12-6-02 12-10-02 12-11-02 12-12-02 12-13-02 12-27-03 12-30-03 12-31-02 1-3-03 1-6-03 1-10-03 1-13-03 1-15-03 1-17-03 1-20-03 1-22-03 1-24-03 1-27-03 1-29-03 1-31-03	97150	\$27.00	\$0.00	R	\$27.00		MAR reimbursement of \$27.00 X 23 dates = \$621.00 is recommended.
12-3-02 12-12-02	97110 (2)	\$70.00	\$0.00	R	\$35.00 / 15 min X 2 = \$70.00		See Rationale below.
12-4-02 12-6-02 12-10-02 12-11-02 12-13-02 1-24-03	97110 (4)	\$140.00	\$0.00	R	\$35.00 / 15 min X 4 = \$140.00		
12-5-02 1-13-03 1-29-03	97110 (5)	\$175.00	\$0.00	R	\$35.00 / 15 min X 5 = \$175.00		
12-27-02 12-30-02 1-3-03 1-6-03 1-15-03 1-22-03 1-31-03	97110 (7)	\$245.00	\$0.00	R	\$35.00 / 15 min X 7 = \$245.00		
12-31-02 1-17-03 1-27-03	97110 (6)	\$210.00	\$0.00	R	\$35.00 / 15 min X 6 = \$210.00		
1-10-03 1-20-03	97110 (8)	\$280.00	\$0.00	R	\$35.00 / 15 min X 8 = \$280.00		
12-17-02	99214	\$75.00	\$0.00	R	\$71.00	MAR reimbursement of \$71.00 is recommended.	
12-17-02	99080-73	\$15.00	\$0.00	R	\$15.00	MAR reimbursement of \$15.00 is recommended.	
12-17-02	95851	\$40.00	\$0.00	R	\$36.00	MAR reimbursement of \$36.00 is recommended.	
12-19-02 12-23-02 1-23-03	97750MT (4)	\$172.00	\$0.00	R	\$43.00 / body area	Medicine GR (I)(E)(3)	

1-8-03	97750MT (2)	\$86.00	\$0.00	R	\$43.00 / body area		MAR reimbursement of \$86.00 is recommended.
2-10-03	97750MT (2)	\$86.00	\$0.00	No EOB	\$43.00 / body area	Medicine GR (I)(E)(3)	MAR reimbursement of \$86.00 is recommended.
1-28-03	99080 (70)	\$35.00	\$0.00	R	\$.50 / pg	Rule 133.106	MAR reimbursement of \$35.00 is recommended.
TOTAL							The requestor is entitled to reimbursement of <b>\$5543.23.</b>

Rationale for 97110:

Recent review of disputes involving one-on-one CPT code 97110 by the Medical Dispute Resolution section 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 therapy notes for these dates of service do not support any clinical (mental or physical) reason as to why the patient could not have performed these exercises in a group setting, with supervision, as opposed to one-to-one therapy. The Requestor has failed to submit documentation to support reimbursement in accordance with the 1996 MFG and 133.307(g)(3). Therefore, reimbursement is not recommended.

This Decision is hereby issued this 15th day of September 2004

Elizabeth Pickle  
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 Decision is applicable for dates of service 11-8-02 through 5-6-03 in this dispute.

This Order is hereby issued this 15th day of September, 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
Enclosure: IRO Decision