

MDR Tracking Number: M5-04-0781-01

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 11-13-03.

The IRO reviewed office visits, expanded problem-focused (99213), massage (97124), mechanical traction (97012) and analgesic balm dispensed (Biofreeze) (99070) rendered from 03-24-03 through 03-31-03 that were denied based upon "V".

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 12-29-03, 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.

CPT code 95851 dates of service 11-26-02 (1 unit) and 02-21-03 (3 units) denied with denial code "F" (reduction according to Medical Fee Guideline). The respondent has made no payment. Reimbursement is recommended per the 96 Medical Fee Guideline MEDICINE GR I (E)(4) in the amount of \$144.00 (\$36.00 X 4 units).

CPT code 97265 dates of service 12-02-02 through 02-07-03 (15 DOS) denied with denial code "F" (reduction according to Medical Fee Guideline). The respondent has made no payment. Reimbursement is recommended per the 96 Medical Fee Guideline MEDICINE GR I (9)(c) in the amount of \$645.00 (\$43.00 X 15 DOS).

CPT code 97250 dates of service 12-02-02 through 02-07-03 (15 DOS) denied with denial code "F" (reduction according to Medical Fee Guideline). The respondent has made no payment. Reimbursement is recommended per the 96 Medical Fee Guideline MEDICINE GR I (9)(c) in the amount of \$645.00 (\$43.00 X 15 DOS).

CPT code 97150 dates of service 12-02-02 through 02-19-03 (20 DOS) denied with denial code "F" (reduction according to Medical Fee Guideline). The respondent has made no payment. Reimbursement is recommended per the 96 Medical Fee Guideline MEDICINE GR I (9)(c) in the amount of \$540.00 (\$27.00 X 20 DOS).

Review of CPT code 97250 dates of service 12-18-02 through 03-10-03 (9 DOS) revealed that neither the requestor nor the respondent submitted EOB's. The requestor provided proof of carrier receipt of the reconsideration request per Rule 133.307(e)(2)(B). Reimbursement is recommended per the 96 Medical Fee Guideline MEDICINE GR I (9)(c) in the amount of \$387.00 (\$43.00 X 9 DOS).

Review of CPT code 97265 dates of service 12-18-02 through 03-10-03 (9 DOS) revealed that neither the requestor nor the respondent submitted EOB's. The requestor provided proof of carrier receipt of the reconsideration request per Rule 133.307(e)(2)(B). Reimbursement is recommended per the 96 Medical Fee Guideline MEDICINE GR I (9)(c) in the amount of \$387.00 (\$43.00 X 9 DOS).

Review of CPT code 99213 dates of service 01-03-03 through 03-10-03 (8 DOS) revealed that neither the requestor nor the respondent submitted EOB's. The requestor provided proof of carrier receipt of the reconsideration request per Rule 133.307(e)(2)(B). Reimbursement is recommended per the 96 Medical Fee Guideline EVALUATION AND MANAGEMENT GR VI(B) in the amount of \$384.00 (\$48.00 X 8 DOS).

Review of CPT code 97150 dates of service 01-03-03 through 01-24-03 (7 DOS) revealed that neither the requestor nor the respondent submitted EOB's. The requestor provided proof of carrier receipt of the reconsideration request per Rule 133.307(e)(2)(B). Reimbursement is recommended per the 96 Medical Fee Guideline EVALUATION AND MANAGEMENT R I (9)(c) in the amount of \$189.00 (\$27.00 X 7 DOS).

Review of CPT code 97110 dates of service 01-03-03 through 01-24-03 (7 DOS) revealed that neither the requestor nor the respondent submitted EOB's. The requestor provided proof of carrier receipt of the reconsideration request per Rule 133.307(e)(2)(B). Recent review of disputes involving 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 of all 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. Reimbursement is not recommended.

Review of CPT code 99215 date of service 01-06-03 revealed that neither the requestor nor the respondent submitted EOB's. The requestor provided proof of carrier receipt of the reconsideration request per Rule 133.307(e)(2)(B). Reimbursement is recommended per the 96 Medical Fee Guideline EVALUATION AND MANAGEMENT GR VI(B) in the amount of \$103.00

Review of CPT code 99080-73 date of service 01-06-03 revealed that neither the requestor nor the respondent submitted EOB's. The requestor provided proof of carrier receipt of the reconsideration request per Rule 133.307(e)(2)(B). Reimbursement is recommended per Rule 133.106(f) in the amount of \$15.00

Review of CPT code 95851 (3 units) date of service 01-06-03 revealed that neither the requestor nor the respondent submitted EOB's. The requestor provided proof of carrier receipt of the reconsideration request per Rule 133.307(e)(2)(B). Reimbursement is recommended per the 96 Medical Fee Guideline EVALUATION AND MANAGEMENT GR I (E)(4) in the amount of \$108.00 (\$36.00 X 3 units).

Review of CPT code 97750-MT (12 units) dates of service 01-06-03, 01-07-03 and 01-10-03 revealed that neither the requestor nor the respondent submitted EOB's. The requestor provided proof of carrier receipt of the reconsideration request per Rule 133.307(e)(2)(B). Reimbursement is recommended per the 96 Medical Fee Guideline MEDICINE GR I (E)(3) in the amount of \$516.00 (\$43.00 X 12 units).

CPT code 97750-MT (4 units) date of service 01-27-03 denied with denial code "F" (reduction according to Medical Fee Guideline). Additional reimbursement is recommended per the 96 Medical Fee Guideline MEDICINE GR I (E)(3) in the amount of \$129.00 (\$172.00 minus carrier payment of \$43.00).

CPT code 97110 dates of service 02-17-03 and 02-19-03 denied with denial code "F" (reduction according to Medical Fee Guideline). Recent review of disputes involving 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 of all 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. Reimbursement is not recommended.

CPT code 99070 date of service 02-14-03 denied with denial code "M" (reduced to fair and reasonable). The carrier has paid \$0.15. The requestor submitted relevant information to clarify the service. Additional reimbursement is recommended per Rule 133.307(g)(3)(A-F) in the amount of \$7.85.

Review of CPT code 99080 date of service 03-17-03 revealed that neither the requestor nor the respondent submitted EOB's. The requestor provided proof of carrier receipt of the reconsideration request per Rule 133.307(e)(2)(B). Reimbursement is recommended per Rule 133.307(g)(3)(A-F) in the amount of \$55.00.

This Findings and Decision is hereby issued this 9th day of November 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 11-26-02 through 03-31-03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 9th day of November 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

October 25, 2004

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

MDR Tracking #: M5-04-0781-01
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.

RECORDS REVIEWED

1. Notification of IRO Assignment, Table of Disputed Services, Carrier EOBs
2. Summary of Provider's Position dated 10/08/04
3. Initial Medical Narrative Report from treating doctor dated 11/07/02 and multiple Subsequent Medical Narrative Medical Reports including Range of Motion Assessment Report
4. Patient "Office Visit Reports" for dates of service 11/07/02 through 03/10/03
5. "Therapeutic Procedures Chart" for dates of service 11/15/02 through 02/19/03
6. DeLorme "muscle strength testing" and "special testing" (Critical Job Demand Testing) for multiple dates of service
7. Copy of TWCC "Benefit Dispute Agreement"
8. X-ray reports of left knee and left shoulder, dated 11/12/02
9. Independent Medical Evaluation report dated 03/20/03
10. Psychological Clinical Interview reports, multiple dates
11. Designated doctor examination and report dated 12/30/02
12. Peer review report dated 03/27/03
13. Copies of multiple pages of references
14. Multiple TWCC-73s

CLINICAL HISTORY

This patient is a 49-year-old male construction worker who, on ____, was carrying a 14-foot long piece of rebar on site when he tripped over a concrete block, twisted, and fell onto his lower back, injuring his left knee, neck and lower back. After seeing the company doctor, he presented to a doctor of chiropractic for chiropractic care whose treatment included chiropractic manipulative therapy, physical therapy and exercise/rehabilitation. He was also referred for medications and behavioral health sessions. He was determined by a designated doctor to be at maximum medical improvement on 12/30/02 with a 10% whole-person impairment.

DISPUTED SERVICES

Under dispute is the medical necessity of Office visits, expanded problem-focused (99213), massage (97124), mechanical traction (97012), and analgesic balm dispensed ["Biofreeze"] (99070) for dates of service 03/24/03 through 03/31/03.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

The documentation submitted adequately demonstrated that a compensable injury had occurred and that the statutory requirements¹ were met, specifically that the prescribed treatment relieved

¹ Texas Labor Code 408.021

the patient's pain, promoted his recovery and enhanced his ability to return to work. In addition, the carrier's own peer reviewer noted in his report dated 03/27/03 – and, after he had reviewed most of the same information – that "...chiropractic treatment is R&N and related to the ___ work injury" and that "Resolution can reasonably be expected upon completion of a 4-6 week work conditioning program or by April 2003 barring unforeseen complications." The dates of service in dispute in this case fall within this predicted range.

It is important to note that this decision is contrary to the designated doctor's conclusions derived from his report of 12/30/02. In that document, the designated doctor wrote that he did "not see evidence to suggest that further material recovery from or lasting improvement to the injury [could] any longer reasonably be anticipated." However, in hindsight, the medical records in this case revealed that the patient's pain did in fact continue to decrease while his range of motion increased.

___ 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,