

MDR Tracking Number: M5-04-0945-01

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 12-01-03.

The IRO reviewed electrical stimulation – unattended, myofascial release, therapeutic activities, joint mobilization, therapeutic exercises, aquatic therapy, office visits and neuromuscular re-education rendered from 12-03-02 through 03-24-03 that was denied based upon “U”.

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	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
1-9-03 through 3-24-03 (4 DOS)	99213	\$200.00 (1 unit @ \$50.00 X 4 DOS)	\$0.00	U	\$48.00	IRO Decision	Reimbursement recommended in the amount of \$48.00 X 4 DOS = \$192.00
1-2-03 through 3-24-03 (24 DOS)	97265	\$1,080.00 (1 unit @ \$45.00 X 24 DOS)	\$0.00	U	\$43.00	IRO Decision	Reimbursement recommended in the amount of \$43.00 X 24 DOS = \$1,032.00
3-3-03	97014	\$25.00 (1 unit)	\$0.00	U	\$15.00	IRO Decision	Reimbursement recommended in the amount of \$15.00
1-2-03 through 2-10-03 (15 DOS)	97250	\$675.00 (1 unit @ \$45.00 X 15 DOS)	\$0.00	U	\$43.00	IRO	Reimbursement recommended of 1 unit for each DOS performed. Reimbursement recommended in the amount of \$43.00 X 15 DOS = \$645.00
3-3-03 through 3-19-03 (8 DOS)	97530	\$525.00 (1 unit @ \$35.00 billed X1 DOS and 2 units @ \$70.00 X 7 DOS)	\$0.00	U	\$35.00	IRO Decision	Reimbursement recommended of 1 unit for each DOS performed. Reimbursement recommended in the amount of \$35.00 X 8 DOS = \$280.00
1-7-03 through	97110	\$770.00 (2 units @	\$0.00	U	\$35.00	IRO Decision	Reimbursement recommended of 1 unit for

3-19-03 (11 DOS)		\$70.00 X 11 DOS)					each DOS performed. Reimbursement recommended in the amount of \$35.00 X 11 DOS = \$385.00
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DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
12-3-02 through 2-10-03 (18 DOS)	97113	\$1,980.00 (2 units @ \$110.00 X 18 DOS)	\$0.00	U	\$52.00	IRO Decision	Reimbursement recommended of 1 unit for each DOS performed. Reimbursement recommended in the amount of \$52.00 X 18 DOS = \$936.00
1-2-03 through 3-24-03 (23 DOS)	97112	\$1,260.00 (1 unit @ \$35.00 X 5 DOS and 2 units @ \$70.00 X 18 DOS)	\$0.00	U	\$35.00	IRO Decision	Reimbursement recommended of 1 unit for each DOS performed. Reimbursement recommended in the amount of \$35.00 X 23 DOS = \$805.00
TOTAL		\$6,515.00					The requestor is entitled to reimbursement of \$4,290.00

The IRO concluded that additional units in excess of one per date of service performed of myofascial release (97250), therapeutic activity (97530), therapeutic exercise (97110), aquatic exercise (97113) and neuromuscular re-education (97112) **were not** medically necessary. The IRO concluded that office visits (99213), joint mobilization (97265), unattended electrical stimulation (97014) one (1) unit of myofascial release (97250), one (1) unit of therapeutic activity (97530), one (1) unit of therapeutic exercise (97110), one (1) unit of aquatic exercise (97113) and one (1) unit of neuromuscular re-education (97112) from 12-03-02 through 03-24-03 **were** medically necessary.

Consequently, the commission has determined that **the requestor prevailed** on the majority of the medical fees (\$4,290.00). 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.

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 02-04-04, 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\$	Reference	Rationale
1-16-03	97250	\$45.00 (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
2-4-03 through 3-7-03 (3 DOS)	97112	\$210.00 (2 units @ \$70.00 X 3 DOS)	\$0.00	NO EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$70.00 X 3 DOS = \$210.00
3-17-03	97265	\$45.00 (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
3-24-03	97530	\$70.00 (2 units)	\$0.00	NO EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$70.00
3-24-03	97110	\$70.00 (2 units)	\$0.00	NO EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement recommended.
TOTAL		\$440.00	\$0.00				The requestor is entitled to reimbursement in the amount of \$366.00

**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 4<sup>th</sup> day of May 2004.

Debra L. Hewitt  
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 12-03-02 through 03-24-03 in this dispute.

This Order is hereby issued this 4<sup>th</sup> day of May 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dlh

May 3, 2004

### **REVISED REPORT**

#### **Corrected decision – deleting listing of massage therapy.**

MDR #: M5-04-0945-01  
IRO Certificate No.: IRO 5055

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine.

**Information Provided for Review:**

Correspondence  
Physical Therapy notes  
Functional Capacity Evaluation

**Clinical History:**

On \_\_\_ patient fractured left calcaneus in a work-related accident. He underwent an open reduction, internal fixation of the fractured calcaneus with autografting of the left heel and Z-plasty of the peroneal tendons. Subsequently, the patient received extensive post-surgical physical medicine treatments.

**Disputed Services:**

Electrical stimulation-unattended, myofascial release, therapeutic activities, joint mobilization, therapeutic exercises, aquatic therapy, office visits, and neuromuscular re-education, during the period of 12/03/02 through 03/24/03.

**Decision:**

The reviewer partially agrees with the determination of the insurance carrier. All office visits (99213), joint mobilization (97265) and unattended electrical stimulation (97014) were medically necessary. One (1) unit of myofascial release (97250), therapeutic activity (97530), therapeutic exercise (97110), aquatic exercise (97113), and neuromuscular re-education (97112) were medically necessary for each date of service performed. Additional units (of the aforementioned timed procedures) in excess of one per date of service were not medically necessary in this case.

**Rationale:**

The practitioner's treatment records and comprehensive reports absolutely document the medical necessity for the type of care rendered. There is simply no question that the type of post-surgical rehabilitative care performed was both indicated and more importantly, beneficial to the patient.

However, there is no documentation to support multiple units of myofascial release (97250), therapeutic activity (97530), therapeutic exercise (97110), aquatic exercise (97113), and neuromuscular re-education (97112). The therapy notes do not give a "beginning" and "end" time for each procedure so there is no confirmation that the patient received treatment in excess of 15 minutes. More importantly, the records offer no explanation as to why treatment in excess of 15 minutes would be medically necessary on such a focused area of the lower extremity.

Sincerely,