

MDR Tracking Number: M5-04-1000-01

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 12-05-03.

The IRO reviewed office visits, joint mobilization, myofascial release, therapeutic exercises, therapeutic activities, H or F reflex study, ROM measurements, neuromuscular re-education, muscle testing, cervical foam collar, x-ray lower spine, x-ray spine, sense nerve conduction test rendered from 12-30-02 through 10-13-03 that were denied based upon "V".

The IRO determined that services through February 2003 **were** medically necessary. The IRO determined that services after February 2003 **were not** medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. 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 07-02-04, 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.

CPT code 99215-MP date of service 12-10-02 denied with denial code "C" (paid in accordance with affordable PPO). The requestor submitted information stating no contract exists with the carrier. The carrier did not submit documentation to prove a contract exists. Additional reimbursement is recommended in the amount of **\$10.30** (\$103.00 minus carrier payment of \$92.70).

CPT code 97265-22 dates of service 12-10-02, 01-09-03 and 01-10-03 denied with denial code "C" (paid in accordance with affordable PPO). The requestor submitted information stating no contract exists with the carrier. The carrier did not submit documentation to prove a contract exists.

Additional reimbursement is recommended in the amount of **\$12.90** ( $\$43.00 \times 3 \text{ DOS} = \$129.00$  minus carrier payment of \$116.10).

CPT code 97530-22 dates of service 12-10-02, 01-09-03 and 01-10-03 denied with denial code “C” (paid in accordance with affordable PPO). The requestor submitted information stating no contract exists with the carrier. The carrier did not submit documentation to prove a contract exists. Additional reimbursement is recommended in the amount of **\$10.50** ( $\$35.00 \times 3 = \$105.00$  minus carrier payment of \$94.50).

CPT code 97250-22 dates of service 12-10-02, 01-09-03 and 01-10-03 denied with denial code “C” (paid in accordance with affordable PPO). The requestor submitted information stating no contract exists with the carrier. The carrier did not submit documentation to prove a contract exists. Additional reimbursement is recommended in the amount of **\$12.90** ( $\$43.00 \times 3 = \$129.00$  minus carrier payment of \$116.10).

CPT code 99070 date of service 12-18-02 denied with denial code “M” (reduced to fair and reasonable). The documentation submitted by the requestor did not support the services billed as fair and reasonable. The required documentation should include pertinent information about the procedure including exact description of procedure or service provided; nature, extent and need (diagnosis and rationale) for the service or procedure; time required to perform the service or procedure; skill level necessary for performance of the service; equipment used and other information as necessary per the 96 Medical Fee Guideline GENERAL INSTRUCTIONS GR III(A)(1-6). No additional reimbursement recommended.

CPT code 99372 dates of service 01-03-03 and 01-08-03 denied with denial code “C” (paid in accordance with affordable PPO). The requestor submitted information stating no contract exists with the carrier. The carrier did not submit documentation to prove a contract exists. Additional reimbursement is recommended in the amount of **\$23.10** ( $\$21.00 \times 2 \text{ DOS} = \$42.00$  minus carrier payment of \$18.90 on date of service 01-08-03).

CPT code 99212-MP date of service 01-09-03 denied with denial code “C” (paid in accordance with affordable PPO). The requestor submitted information stating no contract exists with the carrier. The carrier did not submit documentation to prove a contract exists. Additional reimbursement is recommended in the amount of **\$3.20** ( $\$32.00$  minus carrier payment of \$28.80).

CPT code 99213-MP dates of service 01-10-03 through 10-22-03 (11 DOS) denied with denial code “C” (paid in accordance with affordable PPO). The requestor submitted information stating no contract exists with the carrier. The carrier did not submit documentation to prove a contract exists. Additional reimbursement in the amount of **\$4.80** ( $\$48.00$  minus carrier payment of \$43.20) is recommended. Additional reimbursement in the amount of **\$62.80** ( $\$50.25 \times 125\% = \$62.81 \times 10 \text{ DOS} = \$628.10$  minus \$565.30 carrier payment of \$56.53 each DOS) is recommended.

Review of CPT code 97112-22 dates of service 01-10-03 through 07-29-03 (5 DOS) revealed that neither the requestor nor the respondent submitted copies of EOB's. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request "REQUEST FOR RECONSIDERATION" as the rule states, therefore no reimbursement is recommended.

CPT code 99372 dates of service 01-10-03, 04-15-03 and 04-30-03 denied with denial code "F" (billing for case management services is allowed except in cases where a patient encounter occurs on the same DOS). Per the 96 Medical Fee Guideline EVALUATION AND MANAGEMENT GRXVIII (C) services billed with code 99372 require DOP. Documentation submitted by the requestor does not support the services billed. No reimbursement is recommended.

CPT code 97112-22 date of service 01-09-03 denied with denial code "C" (paid in accordance with affordable PPO). The requestor submitted information stating no contract exists with the carrier. The carrier did not submit documentation to prove a contract exists. Additional reimbursement is recommended in the amount of **\$3.50** (\$35.00 minus carrier payment of \$31.50).

CPT code 99215-MP date of service 01-14-03 denied with denial code "N" (documentation does not justify level of service). Documentation submitted by the requestor meets criteria. Reimbursement is recommended in the amount of **\$103.00**.

CPT code 95925-27 (2 units) date of service 01-23-03 denied with denial code "N (additional documentation required to substantiate procedure and/or charge billed). The requestor did not submit documentation. No reimbursement is recommended.

CPT code 95900-27 date of service 01-23-03 denied with denial code "N (additional documentation required to substantiate procedure and/or charge billed). The requestor did not submit documentation. No reimbursement is recommended.

Review of CPT code 95904-27 (5 units) date of service 01-23-03 revealed that neither the requestor nor the respondent submitted copies of EOB's. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request "REQUEST FOR RECONSIDERATION" as the rule states, therefore no reimbursement is recommended.

CPT code 97530-22 date of service 01-30-03 denied with denial code "F" (submitted documentation does not support or meet the criteria for one-on-one therapy identified in the fee guidelines). No payment was made by the carrier. Documentation provided by the requestor supports criteria. Reimbursement is recommended in the amount of **\$35.00**.

Review of CPT code 95831-MT (3 units) date of service 01-30-03 revealed that neither the requestor nor the respondent submitted copies of EOB's. Per Rule 133.304(k)(1)(A) the requestor did not

clearly mark the reconsideration request "REQUEST FOR RECONSIDERATION" as the rule states, therefore no reimbursement is recommended.

HCPCS code E1399 date of service 02-12-03 denied with denial code "S" (reimbursement for submitted invoice is based upon documentation and/or additional information provided). The requestor submitted documentation to support delivery of service. Additional reimbursement is recommended in the amount of **\$150.00** (\$495.00 billed minus carrier payment of \$345.00).

CPT code 95851-RM (8 units) dates of service 03-26-03 and 04-30-03 denied with denial code "F" (service listed under procedure code is included in a more comprehensive code which accurately describes the entire procedure performed). The carrier per Rule 133.304(c) did not specify which code 95851-RM was more comprehensive to. Reimbursement is recommended in the amount of **\$288.00** (\$36.00 X 8 units).

CPT code 99213-MP date of service 05-21-03 denied per the EOB as a duplicate. The carrier did not clarify what service CPT code 99213 was a duplicate to. Reimbursement is recommended in the amount of **\$48.00**.

CPT code 97265-22 date of service 05-21-03 denied per the EOB as a duplicate. The carrier per Rule 133.304(c) did not clarify what service CPT code 97265 was a duplicate to. Reimbursement is recommended in the amount of **\$43.00**.

CPT code 97530-22 date of service 05-21-03 denied per the EOB as a duplicate. The carrier per Rule 133.304(c) did not clarify what service CPT code 97530-22 was a duplicate to. Reimbursement is recommended in the amount of **\$35.00**.

CPT code 99358-22 date of service 05-28-03 denied with denial code "G" (global). Per Rule 133.304 (c) the carrier did not specify which services CPT code 99358-22 was global to. Reimbursement is recommended in the amount of **\$84.00**.

CPT code 97110-22 date of service 06-11-03 denied with denial code "S" (reimbursement for resubmitted invoice is based upon documentation and/or additional information provided). 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 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.

CPT code 99372 date of service 06-13-03 denied with denial code "N" (submitted documentation does not indicate that the treating doctor conferenced with an interdisciplinary team comprised of multiple individuals). No documentation was submitted by the requestor. No reimbursement is recommended.

CPT code 99358-22 dates of service 06-13-03 and 07-01-03 denied with denial code "N" (submitted documentation does not indicate that the treating doctor conferenced with an interdisciplinary team comprised of multiple individuals). Documentation submitted by requestor clarifies that treating doctor conferenced with several individuals. Reimbursement is recommended in the amount of **\$168.00** (\$84.00 X 2 DOS).

Review of CPT code 99372 dates of service 06-23-03, 11-03-03 and 11-10-03 revealed that neither the requestor nor respondent submitted EOB's. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request "REQUEST FOR RECONSIDERATION" as the rule states, therefore no reimbursement is recommended.

Review of CPT code 99070 date of service 06-25-03 revealed that neither the requestor nor respondent submitted EOB's. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request "REQUEST FOR RECONSIDERATION" as the rule states, therefore no reimbursement is recommended.

CPT code 99070 date of service 07-01-03 denied with denial code "N" (additional documentation required to substantiate procedure and/or charged amount. Documentation submitted by the requestor meets documentation criteria. Reimbursement is recommended in the amount of **\$100.00**.

CPT code 99213-MP date of service 07-02-03 denied with denial code "N" (documentation does not justify level of service. Resubmit using code for appropriate lower level of service). Documentation submitted by requestor does not support the level of service billed. No reimbursement recommended.

CPT code 97265-22 date of service 07-02-03 denied with denial code "F" (reimbursement withheld as procedure is considered integral to primary procedure billed). Per the 1996 MFG CPT code 97265 is not global to any other service billed on same date of service. Reimbursement is recommended in the amount of **\$43.00**.

Review of CPT code 97265-22 date of service 07-23-03 revealed that neither the requestor nor the respondent submitted copies of EOB's. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request "REQUEST FOR RECONSIDERATION" as the rule states, therefore no reimbursement is recommended.

Review of CPT code 97250-22 date of service 07-23-03 revealed that neither the requestor nor the respondent submitted copies of EOB's. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request "REQUEST FOR RECONSIDERATION" as the rule states, therefore no reimbursement is recommended.

Review of CPT code 97110-22 date of service 07-23-03 revealed that neither the requestor nor the respondent submitted copies of EOB's. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request "REQUEST FOR RECONSIDERATION" as the rule states, therefore no reimbursement is recommended.

Review of HCPCS code E1399 date of service 07-23-03 revealed that neither the requestor nor respondent submitted an EOB. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request "REQUEST FOR RECONSIDERATION" as the rule states, therefore no reimbursement is recommended.

Review of CPT code 99070 date of service 07-23-03 revealed that neither the requestor nor respondent submitted an EOB. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request "REQUEST FOR RECONSIDERATION" as the rule states, therefore no reimbursement is recommended.

CPT code 99080-73 date of service 08-26-03 denied with denial code "C" (paid in accordance with affordable PPO). The requestor submitted information stating no contract exists with the carrier. Per Rule 133.106(f) additional reimbursement is recommended in the amount of **\$1.50** (\$15.00 billed minus carrier payment of \$13.50).

CPT code 99213-59 date of service 09-03-03 revealed that an EOB was submitted. However, no denial reason was listed on the EOB submitted. In accordance with rule 133.304(c) "The explanation of benefits shall include the correct payment exception codes required by the Commission's instructions". Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the provider's request for EOB's. Reimbursement is recommended in the amount of **\$62.81** (\$50.25 X 125%).

CPT code 99070 date of service 09-03-03 revealed that an EOB was submitted. However, no denial reason was listed on the EOB submitted. In accordance with rule 133.304(c) “The explanation of benefits shall include the correct payment exception codes required by the Commission’s instructions”. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the provider’s request for EOB’s. Reimbursement is recommended in the amount of **\$150.00**.

CPT code 99358-22 dates of service 09-19-03 and 10-17-03 denied with denial code “C” (paid in accordance with affordable PPO). The requestor submitted information stating no contract exists with the carrier. The carrier did not submit documentation to prove a contract exists. The carrier made no payment. Per the Medical Fee Guideline effective 08-01-03, Rule 134.202(c)(6) the carrier has not assigned a relative value unit. Reimbursement is recommended.

CPT code 99358-22 date of service 09-24-03 denied with denial code “D” (reimbursement for unilateral or bilateral procedure is withheld as the maximum number of occurrences for a single date of service or maximum lifetime for the claim has been exceeded). The carrier made no payment. The carrier has not submitted convincing documentation to show the requestor has exceeded the maximum number of occurrences. The carrier did not assign a relative value unit. Reimbursement is recommended.

CPT code 99358-22 dates of service 09-29-03 and 10-01-03 denied with denial code “F” (review of the submitted documentation indicates that the service provided is considered within the scope of normal practice). The carrier made no payment. Per the Medical Fee Guideline effective 08-01-03 and Ingenix.EncoderPro code 99358 is a bundled code. Therefore, reimbursement is not recommended.

Review of CPT code 99358-22 for dates of service 09-20-03, 10-22-03 and 10-29-03 revealed that neither the requestor nor respondent submitted EOB’s. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request “REQUEST FOR RECONSIDERATION” as the rule states, therefore no reimbursement is recommended.

Review of CPT code 99213-59 dates of service 10-01-03, 10-29-03, 11-14-03 and 11-26-03 revealed that neither the requestor nor respondent submitted EOB’s. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request “REQUEST FOR RECONSIDERATION” as the rule states, therefore no reimbursement is recommended.

CPT code 99372 date of service 10-03-03 denied with denial code “N” (submitted documentation does not indicate that service identified meets the minimum time criteria indicated by the code description). This code does not require a minimum time criteria. The carrier made no payment. The carrier has not assigned a relative value unit. Reimbursement is not recommended.

CPT code 99080-73 date of service 10-08-03 denied with denial code “C” (paid in accordance with affordable PPO). The requestor submitted information stating no contract exists with the carrier.

The carrier did not submit documentation to prove a contract exists. Per Rule 133.106(f) additional reimbursement is recommended in the amount of **\$1.50** (\$15.00 billed minus carrier payment of \$13.50).

Review of CPT code 99080-73 date of service 11-14-03 revealed that neither the requestor nor respondent submitted an EOB. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request “REQUEST FOR RECONSIDERATION” as the rule states, therefore no reimbursement is recommended.

Review of CPT code 99212 date of service 11-19-03 revealed that neither the requestor nor respondent submitted an EOB. Per Rule 133.304(k)(1)(A) the requestor did not clearly mark the reconsideration request “REQUEST FOR RECONSIDERATION” as the rule states, therefore no reimbursement is 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) and in accordance with Medicare program reimbursement methodologies effective August 1, 2003 per Commission Rule 134.202(c), 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 12-10-02 through 11-26-03 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 Findings and Decision and Order are hereby issued this 16th day of November 2004.

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

## NOTICE OF INDEPENDENT REVIEW DECISION

June 7, 2004

**Re: IRO Case # M5-04-1000-01** amended 7/2/04  
**IRO Certificate #4599**

Texas Worker's Compensation Commission:

\_\_\_ 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, Rule133.308 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 \_\_\_ for an independent review. \_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, \_\_\_ 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 physician who is Board Certified in Neurological Surgery, 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 \_\_\_ 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 \_\_\_ reviewer who reviewed this case, based on the medical records provided, is as follows:

### Medical Information Reviewed

1. Table of disputed service 12/30/02 – 10/13/03
2. Explanation of benefits
3. Peer review 4/30/03, 2/10/03
4. Chiropractic advisor review 5/1/03
5. Radiographic report 10/22/03
6. MRI lumbar spine report 1/14/03
7. Electrodiagnostic study report 1/9/03
8. Neurological surgery note 1/9/03
9. Bone and joint center notes 2003
10. DDE report 7/22/03, 3/12/03
11. TWCC work status reports
12. Pain management records
13. Treatment notes

### History

The patient is a 39-year-old male who in \_\_\_ fell from a ladder and developed back pain that was not relieved by conservative measures. Records provided for this review do not include records from the date of injury to the date of surgery in September 2002. It is assumed that the imaging studies showed surgically significant pathology at the L5-S1 level, where a lumbar laminectomy with discectomy and fusion was performed. Post operatively the patient did so poorly that by December 2002 it was recommended that he undergo an extensive physical therapy program. The patient started the physical therapy program on 12/30/02 and continued until 10/13/03, at which point it had been of very little benefit. A note on 11/19/03 indicated that the patient continued with pain and depression, and that there had been no significant help from his physical therapy.

### Requested Service(s)

Office visits, joint mobilization, myofascial release, therapeutic exercises, therapeutic activities, H or F reflex study, ROM measurements, neuromuscular re-education, muscle testing, cervical foam collar, x-ray lower spine, x-ray spine, sense nerve conduction test 12/30/02 – 10/13/03

### Decision

I disagree with the carrier's decision to deny the requested services through February 2003.

I agree with the decision to deny the requested services after February 2003.

### Rationale

For a six to eight week period, through February 2003 in this case, the modalities used for therapy were indicated. After that, when they had been of no help, in all medical probability further physical therapy would not be helpful. In addition, in January 2003 a repeat MRI suggested more surgical pathology, and this is another reason not to continue with non helpful physical therapy. The continued therapy in this case might have been more harmful than helpful, especially since the patient was not showing improvement.

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