

MDR Tracking Number: M5-04-1149-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 12-19-03.

The IRO reviewed MRI, office visits, therapeutic exercises, manual therapy, mechanical traction, and range of motion measurements and report from 8-25-03 through 10-1-03.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. The IRO concluded that three office visits, therapeutic exercises, manual therapy, mechanical traction and range of motion measurements and report from 8-25-03 through 10-1-03 were medically necessary. The IRO agreed with the carrier's adverse determination that the MRI was not medically necessary. 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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 2-26-04, 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:

<b>DOS</b>	<b>CPT CODE</b>	<b>Billed</b>	<b>Paid</b>	<b>EOB Denial Code</b>	<b>MARS (Max. Allowable Reimbursement)</b>	<b>Reference</b>	<b>Rationale</b>
8-25-03 9-2-03 9-3-03 9-15-03 9-22-03 9-24-03 9-29-03 10-1-03	99213	\$66.19 x 8 days	\$0.00	F	\$54.59 x 125% = \$68.24	2002 Medicare Fee Schedule	Relevant information supports delivery of services. Recommend reimbursement of \$66.19 x 8 days = \$529.52.
8-25-03	97750-MT	\$36.94	\$0.00	G	\$29.64 x 125% = \$37.05		Muscle testing is not global to any other service billed on this date. Relevant information supports delivery of service. Recommend reimbursement of \$36.94.
8-29-03	95851	\$35.78	\$0.00	NA	NA		There was no bill on this DOS for this procedure; therefore, no review can be conducted.
9-3-03	99080-73	\$15.00	\$0.00	F	\$15.00	Rule 129.5	Requestor failed to submit relevant information to support delivery of service. No reimbursement recommended.
<b>TOTAL</b>		<b>\$617.24</b>	<b>\$0.00</b>				The requestor is entitled to reimbursement of \$566.46.

The above Findings and Decision are hereby issued this 17<sup>th</sup> day of June 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

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 Order is applicable for dates of service 8-25-03 through 10-1-03 in this dispute.

This Order is hereby issued this 17<sup>th</sup> day of June 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

February 25, 2004  
**Amended June 2, 2004**

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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.

#### CLINICAL HISTORY

\_\_\_, a 27-year-old male, sustained a lower back injury while at work on \_\_\_. He was bent over, lifting carpet-cleaning equipment weighing about 100 lbs. and developed immediate pain to his lower back. He presented to his company doctor where he was x-

rayed and given some pain medication. He then decided to present to \_\_\_\_, a chiropractor, on 8/21/03. He was again x-rayed, and then placed on a conservative treatment régime consisting of joint mobilization, spinal traction, myofascial release and exercises.

#### DISPUTED SERVICES

Under dispute is the medical necessity of mechanical traction (97012), range of motion measurements and report (95851), MRI (72148), office visits (99213), therapeutic exercises (97110), manual therapy (97140), between 08/25/03 and 10/01/03.

#### DECISION

- 1) The reviewer finds medical necessity established for only three office visits (99213) in this dispute.
- 2) There is no clinical indication or rationale for MRI.
- 3) All other requested services appear to be medical necessary.

#### BASIS FOR THE DECISION

- 1) Office Visits (99213): There is only medical necessity established for three evaluation and management (office visit) during the requested time frame.

According to Medicare LMRP titled “Physical Medicine and Rehabilitation”, (policy # Y-13B-R5) regarding the billing of evaluation and management services in conjunction with physical therapy: “when both a modalities/procedure and evaluation service are billed, the evaluation may be reimbursed if the medical necessity for the evaluation is clearly documented. Standard medical practice may be one or two visits in addition to physical therapy treatments. Reimbursement beyond the standard utilization requires documentation supporting the medical necessity for the office visit.”

The patient was essentially on a focused rehabilitation/strengthening program for the lower back. The patient was assessed prior to the initiation of the program on 08/21/03. A follow-up visit within the first week following the initiation of the therapeutic program would seem reasonable, with follow-up visits every subsequent two weeks. The case makeup and records do not establish the necessity of office visits on every date of service, especially a 99213.

- 2) There is no clinical indication or rationale for MRI.

Accepted clinical standards recommend a four to six week time frame prior to the initiation of MRI unless clear clinical indications indicate more serious pathology. There are no clinical indications available in the record to suggest the requirement for MRI at such an early stage. There are no obvious lateralizing complaints reported by the patient, no focal neurological deficits identified on physical exam. The admission of the patient into a rehabilitative exercise program on the same date as the MRI was ordered would also seem to conflict with the requirement for a MRI.

The US Department of Health and Human Services Medical Practice Guidelines *Acute Low Back Pain in Adults* guide also discusses diagnostic protocols. The Guides report that "in the absence of red flags" in example, cancer, infection, Cauda Equina syndrome and/or rapidly progressing neurologic deficits, diagnostic testing is not helpful in the first four weeks of symptoms".

3) All other requested services appear to be medical necessary.

The standard of medical necessity in Workers Comp, according to the Texas labor code 408.021 (entitlement to medical benefits) is that an employee who sustained a compensable injury is entitled to all healthcare reasonably required by the nature of the injury as and when needed. The employee is specifically entitled to healthcare that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; or (3) enhances the ability of the employee to return to or retain employment.

Current clinical guidelines for standard of care support a trial period of treatment, with adjunctive procedures as being appropriate. The initial trial period of manual therapy consists of up to two weeks at a visit frequency of 3-5 visits per week (as appropriate), with appropriate tapering of care and transition to a more active mode of care, eliminating passive modalities, followed by a re-evaluation. If, at that time, there is not a significant documented improvement, a second course of two weeks of care, utilizing different types of manual procedures is appropriate. In the absence of documented improvement, manual procedures are no longer indicated after four weeks. If a patient does not have signs of objective improvement in any two successive two-week periods, referral is indicated. Contemporary treatment guidelines generally agree with the Mercy document that all episodes of symptoms that remain unchanged for 2-3 weeks should be evaluated for risk factors of pending chronicity, with treatment plans altered to de-emphasize passive care and refocus on active care approaches.

This patient appears to have had appropriate primary stage intervention with early utilization of exercise therapy. Care provided is appropriate and has provided improvement in the time frame under review.

\_\_\_ 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,