

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 January 8, 2004.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. The therapeutic exercises, therapeutic activities and office visits from 08-18-03 through 10-06-03 that were denied with "V" were found to be 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 April 15, 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:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
09-10-03	97110	\$261.12	\$0.00	No EOB	\$32.64 x 8units	Medicare Fee Guidelines Rule 134.202(e)(4)(C)	See rationale below for CPT code 97110.
09-25-03	97530	\$263.68	\$0.00	No EOB	\$32.96 x 8units	Medicare Fee Guidelines 134.202(e)(4)(C)	This service was billed by the requestor and denied by the carrier. Neither the requestor nor the respondents submitted EOB's in accordance with 133.307(e)(2)(B) therefore, CPT Code 97530 will be reviewed in accordance with Rule 134.202 effective 8-1-03. The carrier did not provide a valid basis for the denial of this service, reimbursement is recommended in the amount of \$263.68.

10-08-03 10-10-03 10-13-03 10-15-03 10-17-03 10-20-03 10-21-03 10-24-03 10-27-03 10-31-03 11-03-03 11-05-03 11-07-03 11-10-03 11-12-03	97110	\$3916.80	\$0.00	No EOB	\$32.64 x 120 units	Medicare Fee Guidelines Rule 134.202(C)	See rationale below for CPT code 97110.
TOTAL		\$4441.60					The requestor is entitled to reimbursement of \$263.68.

Rationale for CPT code 97110 - 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.

This Findings and Decision is hereby issued this 22<sup>nd</sup> day of October 2004.

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) and/or in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission

Rule 134.202 (b); 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 08-18-03 through 10-06-03 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 22<sup>nd</sup> day of October 2004.

Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/pr

6/24/08:

IRO Decision was received by both Requestor and Respondent