

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-3206.M5

MDR Tracking Number: M5-04-1454-01

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 11-20-03.

The IRO reviewed office visits with manipulation, massage therapy, therapeutic exercises, myofascial release, office visits, hot/cold packs and electric stimulation rendered from 12-18-02 through 07-24-03 that were denied based upon "U".

The IRO determined that the therapeutic exercises and office visits **were** medically necessary. The IRO determined that myofascial release, hot/cold pack therapy and electrical stimulation **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 prevailed** on the **majority** of 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 02-03-04, 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 99358-52 dates of service 04-22-03 and 06-11-03 denied with denial code "F" (fee guideline MAR reduction). The carrier has not made any payment. Reimbursement is

recommended per the 96 Medical Fee Guideline in the amount of \$84.00 (\$42.00 X 2 DOS).

Review of CPT code 97750-MT date of service 04-22-03 revealed that neither the requestor nor the respondent submitted a copy of an EOB. The requestor did not provide convincing evidence of carrier receipt of the providers request for an EOB per Rule 133.307(e)(2)(B). No reimbursement is recommended.

CPT code 97799-MR (2 units) date of service 04-22-03 denied with denial code "G" (global). The carrier did not specify which code 97799-MR was global to per Rule 133.304(c). Reimbursement per the 96 Medical Fee Guideline is recommended in the amount of \$160.00 (\$80.00 X 2 units).

CPT code 95851 date of service 04-22-03 denied with denial code "G" (global). The carrier did not specify which code 95851 was global to per Rule 133.304(c). Reimbursement per the 96 Medical Fee Guideline is recommended in the amount of \$36.00.

CPT code 99080-73 dates of service 05-12-03, 06-09-03, 06-13-03, 06-27-03, 07-10-03 and 07-24-03 (6 DOS) denied with denial code "F" (fee guideline MAR reduction). The carrier has not made any payment. Reimbursement is recommended per Rule 133.106(f) in the amount of \$90.00 (\$15.00 X 6 DOS).

This Findings and Decision is hereby issued this 1st day of December 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 04-16-03 through 07-24-03 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 1st day of December 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/dlh

February 3, 2004

Amended February 24, 2004

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

MDR Tracking #: M5-04-1454-01
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.

CLINICAL HISTORY

___ was injured on the job while moving furniture, suffering a twisting injury to the knee. He underwent conservative care, MRI, arthroscopic excision of a left knee plica, and further therapeutic exercise rehabilitation. Patient did regain near-normal ROM with treatment post-surgically.

DISPUTED SERVICES

Under dispute is the medical necessity of treatments from 12/18/02 through 7/24/03 regarding office visits with manipulation, massage therapy, therapeutic exercises, myofascial release, office visits, hot/cold packs and electric stimulation.

DECISION

The reviewer agrees with the prior adverse determination regarding all passive modalities including myofascial release, hot/cold packs & electric stimulation.

The reviewer disagrees with the prior adverse determination regarding therapeutic exercises and office visits.

BASIS FOR THE DECISION

Passive modalities (myofascial release, hot/cold packs and electrical stimulation) are not indicated for use past 6 weeks of care post-injury without prior approval from the insurance carrier with substantiated medical necessity. There is no documentation included which indicates that pre-authorization was obtained for extended passive care. Office visits are necessary, however, to ascertain the patient's condition over time. The treating doctor must be kept up to date on the patient's condition and progress, and therefore, office visits are a medical necessity. Additionally, the therapeutic exercise did restore function to the injured extremity and therefore was, retrospectively, medically necessary.

___ 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,