

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 January 16, 2004.

Per the requestor's billing agent, payment was received for CPT code 97750-MT billed on date of service 04/18/03 and CPT code 99213 for date of service 06/06/03. Therefore, these CPT codes are no longer in dispute and will not be reviewed.

The IRO reviewed therapeutic exercises, unlisted neurologic/neuromuscular procedure, office visits, joint mobilization, myofascial release and manual traction rendered from 04/28/03 through 06/23/03 that was denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the 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.

The office visits (99213), therapeutic exercises (97110) and joint mobilization (97265) for dates of service 04/28/03 through 06/23/03 **were** found to be medically necessary. The unlisted neurologic/neuromuscular procedure (95999), manual traction (97122) and myofascial release (97250) **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for therapeutic exercises, unlisted neurologic/neuromuscular procedure, office visits, joint mobilization, myofascial release and manual traction.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

ORDER

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby **ORDERS** the respondent to pay 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 to dates of service 04/28/03 through 06/23/03 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 Decision & Order is hereby issued this 8th day October 2004.

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division

MF/mf
Enclosure: IRO Decision

NOTICE OF INDEPENDENT REVIEW DECISION

Date: April 1, 2004

RE: MDR Tracking #: M5-04-1475-01
IRO Certificate #: 5242

_____ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating 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 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 this case.

Clinical History

It appears the claimant suffered a slip and fall injury onto her buttocks and left hip on _____. The claimant reportedly saw her family physician and underwent an MRI, and saw _____, neurologist, on 8/22/01. At that time the claimant was complaining of bilateral low back pain with radicular symptoms into the left lower extremity on the lateral side to the knee. The claimant was also complaining of some urinary control problems and her pain seemed to range from a 2 to an 8/10 pain level. The claimant was noted to be 5'3" tall and weighed about 150 pounds. The examination on 8/22/01 with _____ revealed the claimant's range of motion to be very well maintained without evidence of nerve root tension. The MRI findings revealed a shallow central protrusion at the L4/5 level with an associated annular tear. At L5/S1 there was a mild protrusion noted that was also central and there was also a disc annular tear at that level as well. There was felt to be some mild bilateral foraminal narrowing; however, it was not known if this was due to the facet degenerative changes which were noted or the disc bulge or protrusion. At any rate, the claimant did demonstrate annular tears at 2 levels of the lower lumbar spine. _____ did review the MRI and he did recommend physical therapy along with a left hip MRI and a higher resolution CT scan of the lumbar spine. It was also felt the claimant should continue working and perhaps lumbar facet injections would become a possibility once the CT scan findings were known. A chiropractic peer review of 5/21/03 was reviewed. It appears the claimant has not undergone much physical therapy beyond an initial small trial of physical therapy after the accident. The claimant initiated chiropractic care with _____ on 4/14/03 and it appears _____ has certified the claimant to be at MMI as of 7/11/03 with 5% whole body impairment due to lumbosacral category II DRE impairment. Several chiropractic daily notes were reviewed within the range of

the disputed dates of services. The claimant's range of motion and strength appeared to improve from April through the end of June 2003. The claimant also saw _____ on 6/12/03 and he recommended conservative care and trigger point injections. It was felt the claimant was not a surgical candidate.

Requested Service(s)

The medical necessity of the outpatient services including therapeutic activities, unlisted neurological neuromuscular procedure, office visits, joint mobilization, myofascial release and manual traction for services rendered from 4/28/03 through 6/23/03.

Decision

I agree with the insurance carrier and find that the services billed as 95999, 97122 and 97250, which were billed during the range of disputed services, were not medically necessary. I disagree with the carrier and find that the services billed as 97110, 99213 and 97265 were medically necessary. It is my understanding that the 97750 code which was billed on 4/18/03 and the 99213 code which was billed on 6/6/03 were paid.

Rationale/Basis for Decision

The objective documentation in the form of range of motion and strength studies did show objective improvement through the disputed dates of service to include through the date of 6/30/03. However, the passive modality treatments, such as the poorly documented myofascial release and manual traction, would not be considered appropriate at this stage of the injury, over 2 years post injury. The goal of treatment at this point would be functional active restoration and not passive massage/myofascial release or manual traction. Joint manipulation is acceptable to coincide with an active care program. The neurodiagnostic testing which was done in the form of current perception threshold testing of 4/28/03 would not be considered medically necessary and this code was billed at 95999-WP. This code was used for the current perception threshold (CPT) testing and CPT testing is not recognized as an appropriate or reliable predictor for the presence of lumbar radiculopathy. The test of choice for ruling out radiculopathy has always been needle EMG. It should also be noted that sensory studies are often normal in radiculopathy cases anyway because the lesion is usually proximal to the dorsal root ganglion. CPT testing only serves to confuse the clinical picture and rarely, if ever, enhances or contributes to the treatment plan and does not help to rule out or rule in radiculopathy.