

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 02-02-04.

The IRO reviewed therapeutic activities, therapeutic exercises and neuromuscular re-education rendered from 01-31-03 through 05-23-03 that were denied based upon "U".

The IRO reviewer determined that the therapeutic activities and therapeutic exercises through 03-01-03 **were** medically necessary. The IRO reviewer further determined that the neuromuscular re-education for all dates reviewed and therapeutic activities and therapeutic exercises after 03-01-03 **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 04-28-04, 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.

Review of CPT code 97112 dates of service 03-24-03 through 04-09-03 (8 DOS) revealed neither respondent nor requestor submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor did not submit proof or convincing evidence that the carrier was in receipt of the resubmission request. No reimbursement recommended.

Review of CPT code 97530 dates of service 03-26-03 through 04-11-03 (8 DOS) revealed neither respondent nor requestor submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor did not submit proof or convincing evidence that the carrier was in receipt of the resubmission request. No reimbursement recommended.

Review of CPT code 97110 dates of service 03-26-03 through 04-09-03 (7 DOS) revealed neither respondent nor requestor submitted copies of EOB's. Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings 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 (MRD) has reviewed the matters in light of the Commission requirements for proper documentation.

The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

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 01-31-03 through 02-28-03 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 29th day of October 2004.

Medical Dispute Resolution Officer
Medical Review Division

IRO Decision was sent to Requestor and Respondent
After SOAH determination on 2/17/05, parties reached an agreement.