

MDR Tracking Number: M5-04-1919-01

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 February 26, 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 (97110, 97110-QU) and office visits (99213, 99211, 99212) from 06-06-03 through 10-06-03 **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 09-28-04, 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.

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
03-24-03	97110	\$175.00	\$35.00	F	\$35.00	1996 Medical Fee Guidelines	See Rationale below for 97110
03-26-03	99213 97265 97250 97122 97110	\$48.00 \$43.00 \$43.00 \$35.00 \$175.00	\$0	No EOB	\$48.00 \$43.00 \$43.00 \$35.00 \$35.00 x 5units	1996 Medical Fee Guidelines	Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's however the recon HCFA reflected proof of submission. Therefore, the services in dispute, except for 97110, will be reviewed according to the 1996 Medical Fee Guidelines. Recommend payment of \$169.00. See Rationale below for 97110
04-09-03	97110	\$175.00	\$35.00	F	\$35.00 x 5units	1996 Medical Fee Guidelines	See Rationale below for 97110

04-23-03	95851	\$36.00	\$0	U	\$36.00	1996 Medical Fee Guidelines, Rule 133.304	Although the carrier denied this service with a "U" the explanation code description on the EOB does not specify that this service was not medically necessary. Therefore this service will be reviewed in accordance with the 1996 Medical Fee Guidelines. Recommend reimbursement of \$36.00
05-07-03	99213 97265 97250 97122 97110	\$48.00 \$43.00 \$43.00 \$35.00 \$175.00	\$0	No EOB	\$48.00 \$43.00 \$43.00 \$35.00 \$35.00 x 5units	1996 Medical Fee Guidelines	Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's however the recon HCFA reflected proof of submission. Therefore, the services in dispute, except for 97110, will be reviewed according to the 1996 Medical Fee Guidelines. Recommend payment of \$169.00. See Rationale below for 97110
05-14-03	99213 97265 97250 97122 97110	\$48.00 \$43.00 \$43.00 \$35.00 \$175.00	\$0	No EOB	\$48.00 \$43.00 \$43.00 \$35.00 \$35.00 x 5units	1996 Medical Fee Guidelines	Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's however the recon HCFA reflected proof of submission. Therefore, the services in dispute, except for 97110, will be reviewed according to the 1996 Medical Fee Guidelines. Recommend payment of \$169.00. See Rationale below for 97110
05-15-03	99213 97265 97250 97122 97110	\$48.00 \$43.00 \$43.00 \$35.00 \$175.00	\$0	No EOB	\$48.00 \$43.00 \$43.00 \$35.00 \$35.00 x 5units	1996 Medical Fee Guidelines	Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's however the recon HCFA reflected proof of submission. Therefore, the services in dispute, except for 97110, will be reviewed according to the 1996 Medical Fee Guidelines. Recommend payment of \$169.00. See Rationale below for 97110
05-22-03	95851	\$36.00	\$0	U	\$36.00	1996 Medical Fee Guidelines, Rule 133.304	Although the carrier denied this service with a "U" the explanation code description on the EOB does not specify that this service was not medically necessary. Therefore this service will be reviewed in accordance with the 1996 Medical Fee Guidelines. Recommend payment of \$36.00.

05-29-03	99213 97110	\$48.00 \$175.00		No EOB	\$48.00 \$35.00 x 5units	1996 Medical Fee Guidelines	Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's however the recon HCFA reflected proof of submission. Therefore, the service in dispute, except for 97110, will be reviewed according to the 1996 Medical Fee Guidelines. Recommend payment of \$48.00. See Rationale below for 97110
05-30-03	97750	\$43.00	\$0	No EOB	\$43.00	1996 Medical Fee Guidelines	Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's however the recon HCFA reflected proof of submission. Therefore, the service in dispute will be reviewed according to the 1996 Medical Fee Guidelines. Recommend payment of \$43.00.
08-06-03	99213- QU	\$61.81	\$0	No EOB	\$69.09	Medicare Fee Guideline	Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's however the recon HCFA reflected proof of submission. Therefore, the service in dispute will be reviewed according to the Medicare Fee Guideline. Recommend payment of \$69.09.
08-26-03	99213- QU 97110	\$62.81 \$195.30	\$0	No EOB	\$69.09 \$37.77 x 6	Medicare Fee Guideline	Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's however the recon HCFA reflected proof of submission. Therefore, the 99213-QU, service in dispute will be reviewed according to the Medicare Fee Guideline. Recommend payment of \$69.09. See Rationale below for 97110
08-27-03	99213- QU 97110	\$62.81 \$195.30	\$0	No EOB	\$69.09 \$37.77 x 6	Medicare Fee Guideline	Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's however the recon HCFA reflected proof of submission. Therefore, the 99213-QU, service in dispute will be reviewed according to the Medicare Fee Guideline. Recommend payment of \$69.09. See Rationale below for 97110

08-28-03	99213- QU 97110	\$62.81 \$195.30	\$0	No EOB	\$69.09 \$37.77 x 6	Medicare Fee Guideline	Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's however the recon HCFA reflected proof of submission. Therefore, the 99213-QU, service in dispute will be reviewed according to the Medicare Fee Guideline. Recommend payment of \$69.09. See Rationale below for 97110
TOTAL							The requestor is entitled to reimbursement of \$1115.36

Rationale for CPT code 97110 - 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 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. Reimbursement not recommended.

This Findings and Decision is hereby issued this 8th day of October 2004.

Patricia Rodriguez
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 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 03-24-03 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 8th day of October 2004.

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

May 7, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-1919-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ___ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in orthopedic surgery and is familiar with the condition and treatment options at issue in this appeal. The ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a male who sustained a work related injury on ___. The patient reported that while at work he injured his left elbow. Initial treatment for this patient consisted of physical therapy, and medications. An MRI of the left elbow performed 4/8/03 was reported as normal. An EMG/NCV was performed on 5/15/03 that indicated normal cortical latency values in the median, ulnar, and radial somatosensory evoked potential studies performed bilaterally, and no electrophysiological evidence of cervical radiculopathy, brachial plexopathy, or distal mononeuropathy. The patient continued with physical therapy and medications and was also treated with injections to the left elbow. On 10/30/03 the patient underwent left epicondylar release and was given a short arm splint.

Requested Services

97110, 97110 QU ther exer, 99213 ov, 99211 ov, 99212 ov, and 99213 ov from 6/6/03 through 10/6/03.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. MRI report 4/8/03, 1/29/04
2. EMG/NCV
3. Office notes (Bone and Joint Clinic) 7/30/03 through 2/4/04
4. Soap notes/progress notes 3/21/03 through 10/6/03
5. Operative note 10/30/03
6. Designated Doctor evaluation 10/3/03 Dr. R

Documents Submitted by Respondent:

1. Peer review 4/23/03, 5/25/03
2. MRI report 4/8/03, 3/17/03
3. Physical therapy notes 2/12/03 – 3/13/03
4. Soap notes 3/27/03 through 12/16/03
5. Office notes (___ Clinic) 7/30/03

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

Rationale/Basis for Decision

The ___ physician reviewer noted that this case concerns a male who sustained a work related injury to his left elbow on ____. The ___ physician reviewer also noted that the patient underwent left epicondylar release and short arm splint on 10/30/03. The ___ physician reviewer further noted that the patient had been treated with physical therapy, medications and injections pre and postoperatively. The ___ physician reviewer explained that lengthy physical therapy prior to and after surgery for this condition is not unusual. The ___ physician reviewer also explained that physical therapy prior to and after surgery is indicated and medically necessary. Therefore, the ___ physician consultant concluded that the 97110, 97110 QU ther exer, 99213 ov, 99211 ov, 99212 ov, and 99213 ov from 6/6/03 through 10/6/03 were medically necessary to treat this patient's condition.

Sincerely,