

MDR Tracking Number: M5-04-1977-01

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 03-02-04. Date of service 02-28-03 was untimely filed per Rule 133.308(e)(1) and will not be reviewed by the Medical Review Division.

The IRO reviewed joint mobilization, therapeutic exercises, level III office visits, visits with manipulations, hot and cold pack therapy, neuromuscular re-education, myofascial release, mechanical traction, training in activities of daily living, electrical stimulation unattended, chiropractic manual treatment- spinal, level IV office visit, medical conference and manual therapy technique rendered from 03-03-03 through 11-10-03 that were denied based upon "V".

The IRO determined that all level II and IV office visits with manipulations (99213-MP and 99214-MP), hot and cold pack therapy, chiropractic manipulative therapies, therapeutic exercises (up to a maximum of 4 units per encounter and only through date of service 07-18-03), training in activities of daily living and activities of daily (97540) as well as medical conferences and electrical stimulations **were** found to be medically necessary. The IRO determined that all remaining services and procedures within the specified date range **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 06-18-04, 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 99080-73 dates of service 03-26-03, 05-08-03, 06-02-03, 07-07-03, 08-12-03 and 09-02-03 (6 DOS) denied with denial code "F" (fee guideline MAR reduction). Per Rule 133.106(f) reimbursement in the amount of \$90.00 (\$15.00 X 6 DOS) is recommended.

CPT code 99214-MP dates of service 06-02-03 and 07-03-03 denied with denial code "F" (fee guideline MAR reduction). Per Rule 133.307(g)(3)(A-F) reimbursement is recommended in the amount of \$142.00 (\$71.00 X 2 DOS).

CPT code 99213-MP date of service 07-16-03 denied with denial code "F" (fee guideline MAR reduction). Per Rule 133.307(g)(3)(A-F) reimbursement is recommended in the amount of \$48.00.

CPT code 99214-25 date of service 08-12-03 denied with denied code "D" (duplicate). The Medical Review Division cannot determine the original denial reason, therefore no reimbursement is recommended.

CPT code 99178 date of service 08-26-03 denied with denial code "F" (fee guideline MAR reduction). Per Rule 134.202(b) code 99178 is not a recognized Medicare code. No reimbursement recommended.

CPT code 97014 date of service 09-17-03 denied with denial code "F" (fee guideline MAR reduction). Per Rule 134.202(b) code 97014 is not a recognized Medicare code. No reimbursement recommended.

Review of code 97014 date of service 10-01-03 revealed that neither the requestor nor respondent submitted a copy of the EOB. Per Rule 134.202(b) code 97014 is not a recognized Medicare code. No reimbursement recommended.

CPT code 99371 date of service 10-01-03 revealed that neither the requestor nor respondent submitted a copy of the EOB. Per Rule 134.202(b) code 99371 is not a recognized Medicare code. No reimbursement recommended.

This Findings and Decision is hereby issued this 4th day of November 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) and in accordance with Medicare program reimbursement methodologies effective August 1, 2003 per Commission Rule 134.202(c), 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 03-17-03 through 11-10-03 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 4th day of November 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dlh

**NOTICE OF INDEPENDENT REVIEW DECISION**

May 25, 2004

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
7551 Metro Center Drive, Suite 100, MS 48  
Austin, TX 78744-1609

**Amended Letter 11/01/04**

RE: MDR Tracking #: M5-04-1977-01  
IRO Certificate #: IRO4326

The \_\_\_ 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 rendered 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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in Chiropractic Medicine. \_\_\_'s health care professional 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

This 23 year old male was injured on the job on \_\_\_\_. He injured his low back when he missed a runner for a step and his foot and body dropped 8" injuring his spine. He complained of mid back pain. On \_\_\_\_, he was pinned against a scaffold by a sandblaster that malfunctioned. He stated his mid and low back pain became progressively more painful. On 03/21/03, the thoracolumbar spine report revealed "mild levo thoracolumbar curvature." And the lumbosacral spine x-ray showed "increased translatory motion upon flexion and extension between L1-2, L2-3, L3-4 vertebral motion segments. On 03/24/03, the MRI of the lumbar spine showed "no evidence of disc herniation." His treatment plan included conservative chiropractic care and epidural steroid injections

#### Requested Service(s)

The joint mobilization, therapeutic exercises, level III office visits with manipulations, hot and cold pack therapy, neuromuscular reeducation, myofascial release, mechanical traction, training in activities of daily living, electrical stimulation unattended, chiropractic manual treatment – spinal, level IV office visit, medical conference (99361), manual therapy technique from 03/03/03 through 11/10/03.

#### Decision

It was determined that all level II and IV office visits, with manipulations (99213-MP and 99214-MP), hot and cold pack therapy are approved, as are all chiropractic manipulative therapies (98940).

The therapeutic exercises (97110) are also approved, but only up to a maximum of 4 units per encounter, and only through date of service 07/18/03.

Training in activities of daily living and activities of daily (97540), as well as the medical conferences (99361), and all electrical stimulations (97014) are also approved.

All remaining services and procedures within the specified date range are denied.

#### Rationale/Basis for Decision

In terms of level IV office visits, the diagnosis and the injury in the case adequately supported the need for periodic reevaluations in the ongoing management of this patient, so these were medically necessary. As well, the hot and cold pack therapy and the chiropractic manipulations performed on the patient – initially, as

level III office visits, and later as chiropractic manipulative therapies – were supported by the medical records submitted in this case.

However, the neuromuscular reeducations, the mechanical tractions, the manual therapy technique, the myofascial release, and the joint mobilizations were not supported in the medical records in this case. First of all, nothing in the diagnosis or examination findings suggested neuromuscular pathology that would warrant the necessity that neuromuscular reeducation procedure be performed; the same was true for myofascial release. Further, according to the literature, the indications for mechanical traction are to “1) reduce congestion in chronic musculoskeletal disorders, and 2) provide increased mobility in patients with arthritic complaints.”<sup>1</sup> In this case, the condition treated was an acute condition, and according to the MRI report, was devoid of any degeneration (arthritic). Finally, both manual therapy techniques and joint mobilization are components of spinal manipulation. Since spinal manipulation was already performed on the same dates of service where these other services were reported, it was not medically necessary to perform duplicative procedures.

Insofar as the therapeutic exercises were concerned, the diagnosis and medical records submitted sufficiently necessitated up to an hour of supervised exercise. However, the medical necessity of supervised exercise in excess of one hour, and past date of service 07/18/03 could not be supported. It is understood that these times were post-injection, and continued exercise and therapy were medically necessary. However, at that point in time, the patient should have been adequately trained in the necessary procedures after 4 months of supervision in them to be transitioned into a self-motivated, home based program thereafter. Since chiropractic manipulations and electrical stimulations could not be performed in a home-based setting, they are approved during the specified time frame since they occurred post-injection and are therefore medically necessary.

Sincerely,

<sup>1</sup> *Applied Physiotherapy, Practical Clinical Applications with Emphasis on the Management of Pain and Related Syndromes*, Paul A. Jaskioviak, D.C., F.I.C.C., copyright American Chiropractic Association 1986.