

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

SOAH DOCKET NO. 453-05-2003.M5

MDR Tracking Number: M5-04-2020-01

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 March 8, 2004.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

The office visits for dates of service 03/20/03 through 05/20/03 and therapeutic activities (2 units of 97530) for dates of service 04/02/03 through 05/20/03 **were found to be medically necessary**.

The therapeutic exercises, myofascial release, and joint mobilization for dates of service 03/24/03 through 05/20/03 **were found not to be medically necessary**.

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 June 3, 2004, 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 19 days of the requestor's receipt of the Notice.

- CPT Code 97110 for date of service 03/20/03. Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA reflected proof of submission. Per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(A)(9)(b) the requestor did not submit relevant information that clearly delineate exclusive one-to-one treatment. Reimbursement is not recommended.
- CPT Code 97139-ME for date of service 03/20/03. Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA reflected proof of submission. Per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(C)(1) reimbursement in the amount of \$40.00 is recommended.
- CPT Code 97035 for date of service 03/20/03. Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA reflected proof of submission. Per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(A)(10)(a) reimbursement in the amount of \$22.00 is recommended.

- CPT Code 97032 for date of service 03/20/03. Review of the requestor's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA reflected proof of submission. Per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(A)(10)(a) reimbursement in the amount of \$22.00 is recommended.

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 **03/20/03 through 05/20/03** 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 and Order is hereby issued this 9th day of October 2004.

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division
MF/mf

Enclosure: IRO Decision

NOTICE OF INDEPENDENT REVIEW DECISION

Date: May 14, 2004

RE:

MDR Tracking #: M5-04-2020-01

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

The claimant was driving a forklift backwards when he struck a pole. The patient reported a pop in his neck and felt immediate pain from his cervicals into his left arm. He was treated by ____ and released. He was then treated by ____.

Requested Service(s)

This review will address office visits, joint mobilization, myofascial release, modalities, therapeutic exercises and activities.

Decision

I partially agree with the decision of the carrier.

Rationale/Basis for Decision

This case involves a legitimate injury that the records indicate eventually reached a surgical outcome. The treatment provided ____ followed the Texas Chiropractic and Mercy Conference Guidelines. The records show that the patient continued to progress throughout the treatment period in question. Also, an MRI established the severity of the injury. The guidelines recommend longer treatment for these types of injuries.

A review of the records presented several problems that must be addressed. The notes provided by the doctor do not list exercise and activity in sufficient quantity to justify the charges. Also noted are some minor lapses in care. The carrier showed inconsistency in the charges paid from visit to visit.

Therefore I find the following:

1. Office visits (99213) should be paid for all dates. It is reasonable for the treating doctor to manage a patient under his care.
2. March 20, 2003—Ultrasound (97035) and electrical stimulation (97032) should be paid for this date. The use of passive modalities is reasonable on this date.
3. Therapeutic activities (2 units—97530) on visits from April 2, 2003 to May 20, 2003 are allowed as reasonable and necessary. The patient responded well to this treatment even through relapse of his condition. The notes do not support the time charged. If further notes are available, I will review them. This activity/exercise obviously helped the patient's condition.

All other charges are denied as not reasonable and necessary.