

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER: 453-05-2886.M5

MDR Tracking Number: M5-04-2171-01

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 03-15-04.

The IRO reviewed office visits, electrical stimulation, ultrasound, hot/cold pack therapy, therapeutic procedures, neuromuscular re-education, gait training and massage therapy rendered from 08-01-03 through 09-05-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the 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 06-23-04, 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 99213 dates of service 09-09-03 through 09-16-03 (4 DOS) revealed the requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor submitted proof of convincing evidence of carrier receipt of resubmission. Per Rule 134.202(b) using the Medicare program reimbursement methodologies effective 08-01-03 reimbursement in the amount of \$236.00 ($\$47.20 \times 125\% = \$59.00 \times 4 \text{ DOS}$) is recommended.

Review of CPT code 97150 dates of service 09-09-03 through 10-23-03 (21 DOS) revealed the requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor submitted proof of convincing evidence of carrier receipt of resubmission. Per Rule 134.202(b) using the Medicare program reimbursement methodologies effective 08-01-03 reimbursement in the amount of \$448.98 ($\$17.10 \times 125\% = \$21.38 \times 21 \text{ DOS}$) is recommended.

Review of CPT code 97112 dates of service 09-09-03 through 10-23-03 (21 DOS) revealed the requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor submitted proof of convincing evidence of carrier receipt of resubmission. Per Rule 134.202(b) using the Medicare program reimbursement methodologies effective 08-01-03 reimbursement in the amount of \$701.61 ($\$26.73 \times 125\% = \$33.41 \times 21 \text{ DOS}$) is recommended.

Review of CPT code 97116 dates of service 09-09-03 through 10-23-03 (18 DOS) revealed the requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor submitted proof of convincing evidence of carrier receipt of resubmission. Per Rule 134.202(b) using the Medicare program reimbursement methodologies effective 08-01-03 reimbursement in the amount of \$517.68 ($\$23.01 \times 125\% = \$28.76 \times 18 \text{ DOS}$) is recommended.

Review of CPT code 97124 dates of service 09-09-03 through 09-16-03 (4 DOS) revealed the requestor nor respondent submitted copies of EOB's. Per Rule 133.308(f)(2)(3) the requestor submitted proof of convincing evidence of carrier receipt of resubmission. Per Rule 134.202(b) using the Medicare program reimbursement methodologies effective 08-01-03 reimbursement in the amount of \$102.80 ($\$20.56 \times 125\% = \$25.70 \times 4 \text{ DOS}$) is recommended.

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 09-09-03 through 10-23-03 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 Findings and Decision and Order are hereby issued this 10th day of October 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

**Revised Notice 06/25/04
Note: Attachment Added**

May 26, 2004

AMENDED LETTER

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

RE: Injured Worker:
MDR Tracking #: M5-04-2171-01
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) 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 TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF 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. TMF'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 TMF 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 patient sustained a work-related injury on ____ when he was opening a gate to a pen that contained a bull and the bull charged. The patient was pinned between the gate and the fence and suffered low back pain. He was diagnosed with lumbar intravertebral disc disease with radiculopathy, radiculitis (lumbar) and muscle spasms. The patient underwent chiropractic care for status post crush injury to low back; probable spinal cord contusion; low back pain; lumbosacral strain/sprain; lumbar radiculitis/radiculopathy; and myofascial pain.

Requested Service(s)

99213-Office Visits, 97032-Electrical stimulation, 97035-Ultrasound, 97010-Hot/Cold pack therapy, 97150-Therapeutic procedures, 97112-Neuro Re-education, 97116-Gait training and 97124-Massage Therapy provided from 08/01/03 through 09/05/03.

Decision

It is determined that the 99213-Office Visits, 97032-Electrical stimulation, 97035-Ultrasound, 97010-Hot/Cold pack therapy, 97150-Therapeutic procedures, 97112-Neuro Re-education, 97116-Gait training and 97124- Massage Therapy provided from 08/01/03 through 09/05/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The medical record documentation consists of computer generated daily notes that were essentially verbatim during the time period in question and also during the six weeks prior for 06/17/03 to 07/31/03. According to the progress notes, the patient remained "unchanged" and therefore, there is no basis for continuing unsuccessful treatment after 07/31/03. The records failed to substantiate that the aforementioned services fulfilled the requirements of Texas Labor Code 408.021 since the treatment did not relieve or cure the effects of the injury, did not promote recovery and did not enhance the employee's ability to return to or retain employment.

Sincerely,