

MDR Tracking Number: M5-04-2244-01

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 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on March 22, 2004.

Per Rule 133.307(d)(1) dates of service 03/20/03 and 03/21/03 are not within the 1-year filing deadline; therefore, Medical Dispute Resolution has not jurisdiction and these dates of service will not be reviewed.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. 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.

It was determined that the joint mobilizations (CPT Code 97265) and therapeutic exercises, 2 units (CPT Code 97110) **were found to be medically necessary for dates of service 03/25/03 through 05/21/03**. The myofascial release (CPT Code 97250) and office visits (CPT Code 99213) **were found not to be medically necessary for dates of service 03/25/03 through 05/21/03**.

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.

- CPT Code 99213 for dates of service 04/01/03 through 04/17/03 were denied as "F". The insurance carrier submitted EOBs showing payment was made for office visits for dates of service 04/01/03 through 04/15/03 and 04/17/03. The health care provider was contacted on 10/04/03 and confirmed payment was received; therefore these dates of service are no longer in dispute and will not be reviewed. An EOB was not submitted by either party for the office visit of 04/16/03, however, review of the recon HCFA reflected proof of submission and will be reviewed according to the 1996 Medical Fee Guideline. Per the 1996 Medical Fee Guideline, Evaluation & Management Ground Rule (VI)(B) reimbursement in the amount of \$48.00 is recommended.
- CPT Code 97110 for date of service 05/09/03. An EOB was not submitted by either party, however, review of the recon HCFA reflected proof of submission and will be reviewed according to the 1996 Medical Fee Guideline. Per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(A)(9)(b) the submitted relevant information does not clearly delineate exclusive one-to-one treatment. Therefore, reimbursement is not recommended.

The respondent raised no other reasons for denying reimbursement for joint mobilization, therapeutic exercises, myofascial release and office visits.

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 03/25/03 through 05/21/03 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 9<sup>th</sup> day of October 2004.

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division

MF/mf  
Enclosure: IRO decision

NOTICE OF INDEPENDENT REVIEW DECISION

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

June 2, 2004

**Amended Letter  
07/02/04**

Rosalinda Lopez  
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 #: M5-04-2244-01  
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

On \_\_\_ this male fell from approximately seven feet while at work and landed on his right buttock. He was knocked unconscious. He was seen by the company physician for

complaints of low back pain radiating into the lower extremities, left greater than right and severe sacral pain. He was evaluated with an MRI and was treated with multiple therapies.

#### Requested Service(s)

Therapeutic exercises, myofascial release, joint mobilization and level III office visits for 03/25/03 through 05/21/03

#### Decision

It is determined that the joint mobilizations and the therapeutic exercises from 03/25/03 through 05/21/03 were medically necessary for two units per encounter. The myofascial release and the level III office visits from 03/25/03 through 05/21/03 were not medically necessary.

#### Rationale/Basis for Decision

This patient was seen by a designated doctor on 03/25/03. The doctor's opinion was that the patient had not yet reached maximum medical improvement (MMI) and recommended epidural steroid injections (ESIs) and sacroiliac injections. The carrier-selected doctor (RME) also felt that the patient was not yet a MMI and that "aggressive lumbar stabilization exercises should be appropriate for him and be referred for home exercises as soon as possible." Also, the patient was receiving injections, so it was reasonable to perform these types of therapies concurrently to maximize the benefit of the injections. The patient had significant medical considerations to reasonably monitor at least a portion of his exercise regimen.

The level III office visits were not medically necessary because the extended problem-focused evaluation and management service on a routine basis cannot be supported by either the diagnosis or the documentation submitted in this case, particularly when the spinal manipulation was not performed concurrently. The diagnosis and the medical records did support the necessity for the joint mobilizations, however.

The medical record did not support the myofascial release. This is a therapeutic procedure and the medical records did not indicate the duration or to what muscles this service was applied.

The records that were submitted indicated that the treatment rendered failed to functionally improve the patient. This is evidenced by the daily progress notes, specifically under the subjective complaints. The care delivered failed to relieve the effects, promote recovery or enhance the ability of the injured worker to return to work. Therefore, the joint mobilizations and the therapeutic exercises from 03/25/03 through 05/21/03 were medically necessary for two units per encounter. The myofascial release and the level III office visits from 03/25/03 through 05/21/03 were not medically necessary.

Sincerely,

Gordon B. Strom, Jr., MD  
Director of Medical Assessment

GBS:dm

Attachment