

MDR Tracking Number: M5-04-2640-01

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 4-22-04.

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

The IRO has determined that the office visits, joint mobilization, myofascial release, electrical stimulation, diathermy, TENS consumable supplies, therapeutic exercises, group therapeutic procedures denied with "U" and rendered from 4/22/03 through 4/30/03 **were** medically necessary. The office visits, chiropractic manipulations, mechanical traction therapy, diathermy, electrical stimulation therapy, consumable TENS supplies, and Biofreeze DME# 28 rendered from 7/22/03 through 10/23/03 and denied with "U" **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 October 18, 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 14 days of the requestor's receipt of the Notice.

CPT code 99080-73 for dates of service 4/29/03 was denied by the carrier with "U" for unnecessary medical treatment, however, the TWCC-73 is a required report and is not subject to an IRO review. Review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs for this code for dates of service 5/5/03, 5/13/03, 7/16/03, and 10/9/03.

However, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). The Medical Review Division has jurisdiction in this matter and **reimbursement is recommended** in the amount of \$75.

CPT code 99213 for dates of service 5/5/03, 5/8/03, 5/9/03, 5/19/03, 5/21/03, 5/27/03, 5/28/03, 6/2/03, 6/11/03, 6/16/03, 6/18/03, 6/23/03, 6/25/03, 7/7/03, 12/1/03, and 12/4/03: review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs for this code on these dates of service, however, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be reviewed according to the Fee guidelines, and **reimbursement is recommended** in the amount of \$789.98 (14 visits @ \$48 & 2 visits @ \$58.99).

CPT code 97014 for date of service 5/5/03-review of the requester's and respondent's documentation revealed that neither party submitted copies of EOBs, however, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be reviewed according to the fee guidelines, and **reimbursement is recommended** in the amount of \$15.

CPT code 97150 for dates of service 5/5/03, 5/8/03, 5/9/03, 5/19/03, 5/21/03, 5/27/03, 5/28/03, 6/2/03, 6/11/03, 6/16/03, 6/18/03, 6/23/03, 6/25/03, and 7/7/03: Review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs. However, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be reviewed according to the fee guidelines, and **reimbursement is recommended** in the amount of \$378 (14 units @ \$27).

CPT code 99070 for dates of service 5/5/03 (analgesic balm) and 12/4/03 (Biofreeze DME #28): Review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs. However, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be reviewed according to the fee guidelines, and **reimbursement is recommended** in the amount of \$16 (\$8 for each).

CPT code 97265 for dates of service 5/8/03, 6/16/03, 6/18/03, 6/23/03, 6/25/03, and 7/7/03: Review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs. However, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be reviewed according to the fee guidelines, and **reimbursement is recommended** in the amount of \$258 (6 units @ \$43).

CPT code 97250 for dates of service 5/8/03, 6/16/03, 6/18/03, 6/23/03, 6/25/03, and 7/7/03: Review of the requesters' and respondents' documentation revealed

that neither party submitted copies of EOBs. However, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be reviewed according to the fee guidelines, and **reimbursement is recommended** in the amount of \$258 (6 units @ \$43).

CPT code 99214 for dates of service 5/13/03 and 7/16/03: Review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs. However, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be reviewed according to the fee guidelines, and **reimbursement is recommended** in the amount of \$142 (2 visits @ \$71).

CPT code 95851 for dates of service 5/13/03, 7/16/03, and 12/4/03: Review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs. However, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be reviewed according to the fee guidelines, and **reimbursement is recommended** in the amount of \$108 (3 X \$43).

CPT code 97750 MT for dates of service 5/13/03, 5/14/03, 6/10/03, 6/30/03, 7/16/03, and 12/4/03: Review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs. However, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be reviewed according to the fee guidelines, and **reimbursement is recommended** in the amount of \$778.60 (15 units @ \$43 and 4 units @ 33.40).

CPT code 97024 for date of service 6/16/03: Review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs. However, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be reviewed according to the fee guidelines, and **reimbursement is recommended** in the amount of \$21.

CPT code 99212 for date of service 11/12/03: Review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs. However, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be reviewed according to the fee guidelines, and **reimbursement is recommended** in the amount of \$41.91.

CPT code 98940 for date of service 12/1/03: Review of the requesters' and respondents' documentation revealed that neither party submitted copies of EOBs. However, the requestor provided proof of submission for the medical bills in accordance with §133.307(g)(3)(A). Therefore, the disputed service will be

reviewed according to the fee guidelines, and **reimbursement is recommended** in the amount of \$30.13.

CPT code 97110 for dates of service 5/5/03, 5/8/03, 5/9/03, 5/19/03, 5/21/03, 5/27/03, 5/28/03, 6/2/03, 6/11/03, 6/16/03, 6/18/03, 6/23/03, 6/25/03, and 7/7/03: 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 MDR 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 is not 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 as follows:

- in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) for dates of service through July 31, 2003;
- in accordance with Medicare program reimbursement methodologies for dates of service after 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 Order is applicable to dates of service 4/22/03 through 12/4/03 as outlined above 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 3rd day of February 2005.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division
RLC/rlc

Enclosure: IRO Decision

August 13, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-2640-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.:

Dear

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's
Information provided by Requestor: letter of medical necessity, office notes, daily progress notes, therapeutic procedures, ROM tests, operative and radiology reports.
Information provided by Respondent: designated doctor exams.

Clinical History:

The claimant was working when he was involved in a work-related event on ___ that resulted in an injury sustained to the lumbar spine. The injury was reported to his immediate supervisor, and approximately two weeks later the pain persisted warranting the claimant to again report the injury to his supervisor.

The claimant was initially consulted by an M.D. on 01/14/03, and a trial of muscle relaxants and Celebrex was issued. The claimant was returned to duty on 03/21/03 at

the request of the M.D. On 04/14/03, after a TWCC-53 was completed and approved, the claimant initiated chiropractic treatment. The claimant was deemed a candidate for active, rehabilitation therapeutics and a course of 9 sessions was completed from 04/22/03 through 05/09/03. During the 9-session course of rehabilitation, the provider noted a 25% increase in floor lift, 32% increase in back lift, 23% increase in leg lift, and 15% increase in arm lifts. The claimant was referred for neurological consult and MR imaging of the lumbar spine was ordered. The worker completed 11 session of chiropractic rehabilitation applications from 05/19/03 through 07/07/03; 17% increase in floor lift, 27% decrease in back lift noted, 26% increase in leg lift noted, 12% decrease in arm lift noted. MR imaging of the lumbar spine performed 05/28/03 revealed the claimant had mild broad-based disc bulging present at levels L5/S1 and L4-L5; a small tear in the anulus at L5/S1.

Evaluation on 06/04/03 revealed that the claimant has chronic lumbar discomfort that is compatible to facet joint syndrome. Facet blocks were recommended. Lumbar ESI was ordered on 11/26/03. Required medical examination (RME) performed on 02/20/04 revealed that the claimant has lumbar syndrome and was capable of returning to work, and additional ESI series may be considered appropriate. MR Imaging of the lumbar spine performed on 02/20/04 revealed 2-level disc pathology at L4/L5 and L5/S1. Orthopaedic consult on 06/21/04 revealed the claimant has discogenic pain and is a candidate for IDET or lumbar discectomy/fusion.

Disputed Services:

Office visits, joint mobilization, myofascial release, electrical stimulation, mechanical traction, diathermy, supplies/materials, therapeutic exercises & procedures, chiropractic manual treatment-spinal, and unlisted therapeutic procedures during the period of 04/22/03 through 10/23/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier as follows:

Medically Necessary

- all treatment/services in dispute as stated above from 04/22/03 through 07/07/03

Not Medically Necessary

- all treatment/services in dispute as stated above beyond 07/07/03.

Rationale:

The claimant does have physical pathology for the implementation of active rehabilitation applications that are patient driven as an appropriate course of management in the treatment of this claimant's condition. Beyond 07/08/03, the provider's qualitative/quantitative data fall short in efficacy for the implemented procedures. Medical consultation warrants the progression of this claimant toward invasive pain controls like facet injections and/or ESI series; this seems appropriate from the reviewed medical data.

The aforementioned information has been taken from the following guidelines of clinical practice and/or peer reviewed references.

- ACOM Occupational Medicine Practice Guidelines, Chapter 12. *Low Back Pain Complaints*. Page 298-305.

- Manchikanti, L. *Facet Joint Pain In The Role of Neural Blockade And Its Management*. Curr Rev Pain 1999; 3 (5): 348-358.
- *Overview of Implementation of Outcome Assessment Case Management In The Clinical Practice*. Washington State Chiropractic Association; 2001, 54p.
- Slipman, C. W., et. al., *A Critical Review Of The Evidence For The Use Of Zygapophyseal Injections And Radiofrequency Denervation In The Treatment Of Low Back Pain*. Spine J. 2000 July-Aug; 3 (4): 310-6.

Sincerely,