

MDR Tracking Number: M5-04-2748-01

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 04-26-04. Date of service 04-24-03 was not timely filed per Rule 133.308(e)(1) and will not be reviewed by the Medical Review Division.

The IRO reviewed level II office visits, myofascial release, electrical stimulation, electrical stimulation-unattended, ultrasound, paraffin bath, therapeutic exercises, hot/cold pack therapy and manual therapy technique rendered from 04-28-03 through 08-28-03 that were denied based upon "V".

The IRO concluded that level II office visits, ultrasound, manual therapy technique, therapeutic exercises, electrical stimulation and electrical stimulation-unattended **were** medically necessary. The IRO further concluded that all remaining modalities and procedures (myofascial release, paraffin bath and hot/cold pack therapy **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 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 \$460.00** 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.

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 07-02-04, 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 99212 date of service 06-30-03, CPT code 97010 dates of service 09-02-03 and 09-03-03, CPT code 97014 date of service 06-30-03, CPT code 97035 dates of service 09-02-03 and 09-03-03, CPT code 97110 dates of service 09-02-03 and 09-03-03, CPT code 97140 dates of service 08-22-03, 08-25-03 and 09-03-03, CPT code 97018 dates of service 09-02-03 and 09-03-03 and CPT code 97032 dates of service 09-02-03 and 09-03-03 revealed that neither the requestor nor the respondent submitted EOB's. The requestor did not provide convincing evidence of carrier receipt of the provider's request for EOB's in accordance with Rule 133.307(e)(2)(B). No reimbursement 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) and in accordance with Medicare program reimbursement methodologies effective 08-01-03 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 04-28-03 through 08-28-03 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 9th day of November 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Enclosure: IRO Decision

MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive

Austin, Texas 78738

Phone: 512-402-1400

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NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 6/28/04

TWCC Case Number:	
MDR Tracking Number:	M5-04-2748-01
Name of Patient:	
Name of URA/Payer:	Ghada Koudsi, DC
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Ghada Koudsi, DC

June 17, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Texas Workers Compensation Commission

CLINICAL HISTORY

Patient is a 42-year-old female cash room clerk who injured her right shoulder and elbow on ___ after carrying heavy items on her shoulder. The diagnosis was right rotator cuff tear and right cubital tunnel syndrome. Following a failure of conservative care, the patient underwent arthroscopic repair to her shoulder on 09/25/02 and then post-operative physical therapy. On 12/12/02, the patient underwent right cubital tunnel release, followed by post-op physical therapy that began on 01/09/03, and eventually included work hardening. When the patient felt she was worsening from the work hardening, she changed treating doctors to Dr. Koulsi, a doctor of chiropractic, who recommended she quit the work hardening, and return to acute therapy. Repeat EMG/NCV performed on 05/01/03 showed persistent right cubital tunnel syndrome, so the patient underwent yet another right cubital tunnel

release operative procedure on 06/13/03, followed by post-operative physical therapy.

REQUESTED SERVICE(S)

Level II office visits (99212), myofascial release (97250), electrical stimulation (97032), electrical stimulation, unattended (97014), ultrasound (97035), paraffin bath (97018), therapeutic exercises (97110), hot/cold pack therapy (97010) and manual therapy technique (97140) for dates of service 04/28/03 through 08/28/03.

DECISION

The level II office visits (99212), ultrasound (97035), manual therapy technique (97140), therapeutic exercise (97110), electrical stimulation (97032) and electrical stimulation, unattended (97014) are approved.

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

RATIONALE/BASIS FOR DECISION

In this case, the carrier's own peer reviewer (Charles V. Matthews, D.C., dated 09/22/03) wholly approved the therapy from 07/02/03 through 08/28/03, which really only leaves in question the medical necessity of services prior to then, beginning on 04/28/03. After reviewing the supplied documentation, both the diagnoses and medical records adequately established the medical necessity for the treatment rendered within this time frame. Not only had the patient's status digressed both objectively and subjectively, the doctor of chiropractic involved a surgeon early on in her care, and was performing physical therapy at his specific direction throughout.

However, insofar as the paraffin bath (97018) and myofascial release were concerned, nothing in either the diagnoses or the records supported the medical necessity of performing these services. In fact, the usage of paraffin in this case was actually contraindicated due to the patient's neuropathy and complaints of diminished sensation.¹

¹ *Applied Physiotherapy*, by Paul A. Jaskoviak, D.C., F.I.C.C. and R. C. Schafer, D.C., F.I.C.C., published by the American Chiropractic Association, 1986, page 149.