

MDR Tracking Number: M5-04-2964-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 5-10-04.

The IRO reviewed unlisted therapeutic procedures, vasopneumatic device, chiropractic manual treatments, manual therapy technique, hot/cold packs, office visits, physical medicine procedure, electrical stimulation, and DME code E0238 (nu-heat pad) on 8-1-03 to 3-15-04.

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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. On 7-1-04, 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.

Codes 97016, 99213, and 97140-59 billed for dates of service 8-1-03 through 8-11-03, were denied as "G90" – TWCC code G – unbundling (included in global), the value of this service is included in the value of another service billed on the same date. ." Rule 133.304(c) states in part, "...The explanation of benefits shall include the correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier's action(s). A generic statement that simply states a conclusion such as "not sufficiently documented" or other similar phrases with no further description of the reason for the reduction or denial of payment does not satisfy the requirements of this section..." The carrier did not indicate what service(s) the disputed codes were global to. Therefore, recommend the following reimbursements:

Code 97016 – per rule 134.202, the MAR is  $\$14.47 \times 125\% = \$18.09 \times 4 \text{ days} = \$72.35$

Code 99213 – per rule 134.202, the MAR is  $\$52.95 \times 125\% = \$66.19$ .

Code 97140-59 – per rule 134.202, the MAR is  $\$27.24 \times 125\% = \$34.05 \times 2 \text{ days} = \$68.10$

- Code 97139 billed for date of service 8-13-03 was denied as "N2" – not appropriate [sic] documented. The procedure/HCPSC code is not a valid code. Per the Medicare Fee

- Guideline, this is a valid code; however, the code requires a specific description of the services. The table of disputed services states that 'Matrix therapy' is billed with code 97139. Therefore, recommend reimbursement of  $\$16.37 \times 125\% = \$20.46$ .

Codes 98943, 97140-59, 97139, and 97016 billed for date of service 8-22-03 were denied as "D91" – this appears to be a duplicate charge. Since neither party submitted the original EOB, the review will be per Rule 134.202. Requestor's daily note supports services rendered. Since the carrier did not provide a valid basis for the denial of this service, recommend reimbursement as follows:

- Code 98943 – per Medicare, this is a noncovered service. No reimbursement recommended.
- Code 97140-59 - per rule 134.202, the MAR is  $\$27.24 \times 125\% = \$34.05$
- Code 97139 - Per the Medicare Fee Guideline, this is a valid code; however, the code requires a specific description of the services. The table of disputed services states that 'Matrix therapy' is billed with code 97139. Therefore, recommend reimbursement of  $\$16.37 \times 125\% = \$20.46$ .
- Code 97016 – per rule 134.202, the MAR is  $\$14.47 \times 125\% = \$18.09$ .

Code 97012 billed for date of service 8-27-03 was denied as "F72" – treatment has exceeded Medicare guidelines for length of treatment sessions. Carrier's denial statement is unclear. Rule 133.304(c) states in part, "...The explanation of benefits shall include the correct payment exception codes required by the Commission's instructions, and shall provide sufficient explanation to allow the sender to understand the reason(s) for the insurance carrier's action(s). A generic statement that simply states a conclusion such as "not sufficiently documented" or other similar phrases with no further description of the reason for the reduction or denial of payment does not satisfy the requirements of this section..." The carrier did not make reference to the Medicare guideline that talks about 'length of treatment sessions'. Therefore, recommend reimbursement of  $\$15.12 \times 125\% = \$18.90$ .

Code 97140-59 billed for date of service 9-15-03 and 9-18-03 was denied as "F85" – due to duplication of services, when the codes 97140, 98925-98929, 98940-98943 are billed on the same day, separate payment will not be allowed. The requestor billed with modifier –59 which allows separate payment. Recommend reimbursement of  $\$27.24 \times 2 \text{ days} = \$54.48 \times 125\% = \$68.10$ .

Codes 98943, 97139, and 97016 billed for dates of service 9-25-03, 9-29-03, and 10-2-03 were denied as "N72" – documentation must include treatment provided (with days of week), response to treatment, progressive overall improvement of symptoms, failure to respond to treatment should reflect a change of the treatment plan. The daily notes included the type treatment only. Therefore, no reimbursement recommended.

The above Findings and Decision is hereby issued this 4th day of November 2004.

Dee Z. Torres  
 Medical Dispute Resolution Officer  
 Medical Review Division

**ORDER**

**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 outlined above 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 8-1-03 through 3-15-04 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 Order is hereby issued this 4th day of November 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

August 13, 2004

**NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-04-2964-01**  
**TWCC #:**  
**Injured Employee:**  
**Requestor:**  
**Respondent:**  
**----- Case #:**

----- has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ----- IRO Certificate Number is 5348. Texas Worker’s Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier’s adverse medical necessity determination. TWCC assigned the above-reference case to ----- for independent review in accordance with this Rule.

----- has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ----- external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ----- chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ----- for independent review. In addition, the ----- chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

### Clinical History

This case concerns a 45 year-old male who sustained a work related injury on ----- . The patient reported that while at work he was guiding a 4-5 ton air-conditioning unit down while a crane was lowering it when he began to experience severe pain in his left shoulder. An MRI of the left shoulder performed on 10/8/02 revealed a deep, partial substance bursal surface tear involving the distal supraspinatus tendon. The diagnosis for this patient includes deep, partial substance bursal surface tear of the left supraspinatus tendon. Initially treatment had consisted of therapeutic exercises, electrical stimulation, hot packs, therapeutic activities, ultrasound, aquatic therapy, ice, myofascial release, and joint mobilization. The patient had also undergone trigger point injection.

### Requested Services

Unlist ther procedures, vasopneumatic device, chiropractic manual treatment, manual therapy technique, hot/cold pack therapy, office visit, physical medical procedure, heat pad, and electrical stimulation from 8/1/03 through 3/15/04.

### Documents and/or information used by the reviewer to reach a decision:

#### *Documents Submitted by Requestor:*

1. Letter of Medical Necessity (not dated)
2. Impairment Rating 5/5/03
3. Initial Consultation report and procedure note 1/23/04
4. MRI report 10/8/02
5. Retrospective Medical Records Review 10/14/03
6. Treatment notes 8/1/03 – 4/5/04

#### *Documents Submitted by Respondent:*

1. Same as above

### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

### Rationale/Basis for Decision

The ----- chiropractor reviewer noted that this case concerns a 45 year-old male who sustained a work related injury to his shoulder on ----- . The ----- chiropractor reviewer also noted that the diagnoses for this patient have included deep, partial substance bursal surface tear of the left supraspinatous tendon. The ----- chiropractor reviewer further noted that the treatment for this patient's condition has included therapeutic exercises, electrical stimulation, hot packs, therapeutic activities, ultrasound, aquatic therapy, ice, myofascial release, joint mobilization and trigger point injections. The ----- chiropractor reviewer indicated that the patient was found to be at maximum medical improvement on 5/5/03. The ----- chiropractor reviewer explained that the patient had opted to not undergo surgery and therefore he would experience ongoing pain, particularly in abduction. The ----- chiropractor reviewer indicated that the patient's pain level dropped from an 8-10/10 to 4-5/10 due to the active care he was receiving. The ----- chiropractor reviewer explained that the patient also underwent injections. The ----- chiropractor reviewer also explained that the injections combined with current treatment further promoted healing and reduced pain. Therefore, the ----- chiropractor consultant concluded that the unlist ther procedures, vasopneumatic device, chiropractic manual treatment, manual therapy technique, hot/cold pack therapy, office visit, physical medical procedure, heat pad, and electrical stimulation from 8/1/03 through 3/15/04 were medically necessary to treat this patient's condition.

Sincerely,