

MDR Tracking Number: M5-04-2991-01

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 5-11-04.

The IRO reviewed unlisted evaluation and management service on 1-9-04.

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 7-2-04, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
10/31/03	99214-MP 72052-WP 72110-WP	\$89.00 \$132.00 \$120.00	\$0.00	F	\$73.84 X 125% = \$92.30 \$55.39 x 125% = 69.24 \$46.50 x 125% = \$58.13	Rule 134.202 (b)(c)(d)	Per this rule, reimbursement is recommended. Per the Medicare Fee Schedule recommend reimbursement as follows: Reimbursement shall be the least of the MAR established by this rule or the health care provider's usual and customary charge. 99214-MP - recommend \$89.00 72052-WP - recommend \$69.24 72110-WP – recommend \$58.13
11/13/03	A4556	\$35.00	\$0.00	F	\$17.03 x 125% = \$21.29	Rule 134.202(c)(2)(A)	Per this rule, reimbursement is recommended. Per the Medicaid Fee Schedule, recommend

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							reimbursement as follows: Reimbursement shall be the least of the MAR established by this rule or the health care provider's usual and customary charge. A4556 – recommend \$21.29
11/13/03 11/19/03 11/24/03 12/1/03 12/8/03 12/15/03 12/22/03 12/29/03	98941 97112	\$43.00 x 8 days \$35.00 x 8 days	\$0.00	F	\$33.51 x 125% = \$41.89 \$26.73 x 125% = \$33.41	Rule 134.202 (b)(c)(d)	Per this rule, reimbursement is recommended. Per the Medicare Fee Schedule recommend reimbursement as follows: Reimbursement shall be the least of the MAR established by this rule or the health care provider's usual and customary charge. 98941 – recommend \$41.89 x 8 days = \$335.12 97112 – recommend \$33.41 x 8 days = \$267.28
1/6/04	98941 97112	\$43.00 \$35.00	\$0.00	F	\$34.91 x 125% = \$43.64 \$27.44 x 125% = \$34.30	Rule 134.202 (b)(c)(d)	Per this rule, reimbursement is recommended. Per the Medicare Fee Schedule recommend reimbursement as follows: Reimbursement shall be the least of the MAR established by this rule or the health care provider's usual and customary charge. 98941 – recommend \$43.00 97112 – recommend 34.30
12/8/03	99080-73	\$15.00	\$0.00	F	\$15.00	Rule 129.5	The carrier denied as “V – unnecessary medical; however, the TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter; therefore,

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
							recommend reimbursement of \$15.00.
TOTAL							The requestor is entitled to reimbursement of \$932.36.

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 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 10-31-03 through 1-9-04 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 19th day of October 2004.

Dee Z. Torres
 Medical Dispute Resolution Officer
 Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

Date: July 21, 2004

RE:

MDR Tracking #: M5-04-2991-01

IRO Certificate #: 5242

_____ 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 _____ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

_____ has performed an independent review of the proposed 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 Chiropractic physician reviewer who has an ADL certification. The reviewer 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 for

independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Documents reviewed from the provider:

- Treating doctor's account of a 01/09/2004 IME report
- A map to the IME location and a position letter.

Documents reviewed from the carrier:

- A letter from the claims associate, a peer review, an IME report
- A request for reconsideration from the treating doctor
- HCFA 1500s.

Clinical History

According to the supplied documentation, the claimant injured his back in _____. The claimant has undergone consistent chiropractic therapy. The documentation reports the claimant has undergone injection with temporary relief. The documentation also states that the claimant is not a surgical candidate, but is not able to perform any work activities. The peer review report addresses issues that relate to the claimant being able to sit or not. There apparently was mixed issues with his FCE reports. The supplied documentation is limited from both parties. The documentation ends here.

Requested Service(s)

Please review and address the medical necessity of the outpatient services including unlisted evaluation management service rendered 01/09/2004.

Decision

I agree with the treating doctor that the services rendered were medically necessary.

Rationale/Basis for Decision

According to the TWCC rule #126.6 the treating doctor is authorized to be present at an IME exam. The TWCC rule #134.5 includes that the time billed includes the travel time, exam and return time.

§134.5. Treating Doctor Attendance at medical Examination Under a Medical Examination Order.

(a) The injured employee's treating doctor may be present at a required medical examination as described in §126.6 of this title (relating to Order for Required Medical Examinations). The treating doctor shall be reimbursed by the insurance carrier for time as specified in the following guidelines:

- (1) a rate of \$100 an hour limited to four hours of reimbursement of time or, if in excess of four hours, with prior approval from the insurance carrier;
- (2) reimbursement is limited to the time required to travel from the doctor's usual place of business to the place of the examination. In addition, it includes the duration of the examination and the time required to return from the examination location to the doctor's usual place of business (departure point). The travel

shall be by the most direct route. This time does not include time spent for meals or other elective activities engaged in by the doctor;

(3) the charge shall be calculated in quarter hour increments with any amount over 10 minutes to be considered an additional quarter hour.

The treating doctor documented 3 hours and 10 minutes for the entire process and billed three hours. This is within TWCC guidelines and is seen as reasonable and necessary in the treatment of the claimant.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the patient, the requestor, the insurance carrier, and TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 21st day of July 2004.