

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-05-3065.M5**

MDR Tracking Number: M5-04-3055-01

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 January 10, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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. The office visits, joint mobilization, therapeutic procedure, myofascial release, and one 15-minute unit of therapeutic exercises on each disputed date of service rendered on 3/7/02 through 9/6/02 **were found to be medically necessary**. The remaining units of therapeutic exercises and group therapy procedures (97150) **were not found to be medically necessary**. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On September 28, 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.

Review of the Memorandum, dated 5/18/04 revealed a Notice of Medical Dispute Resolution was placed in the carrier representative box on 5/18/04 and picked up by Debbie Wright on 5/20/04. Review of the carrier's position stamped received by the Commission June 24, 2004, revealed the carrier's position, as "Carrier did not get the TWCC-60 until sent in by the IRO." According to the TWCC Rule 133.308 (h), "Response. The carrier shall file the response to the request with the division and the requestor by facsimile or other electronic means within ...14 calendar days' for retrospective medical necessity disputes." Therefore the carrier's response is considered untimely and cannot be considered in this review.

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

DOS	CPT CODE	Billed	Paid	EOB Denial Code	Rationale
6/20/02	99213	\$50.00	\$0.00	R	Review of the Commissions records revealed the relatedness issue was resolved. Therefore the disputed charge will be reviewed according to the 1996 MFG. Reimbursement is recommended in the amount of \$48.00.
7/23/02	99213	\$50.00	\$0.00	No EOB	According to the TWCC Rule 133.307 (e)(3)(B), "Upon receipt of the request the respondent shall: provide any missing information required on the form, including absent EOBs not submitted by the requestor with the request; and..." In addition according to the TWCC Rule 133.307 (e)(2)(B), "Each copy of the request shall be legible, include only a single copy of each document, and shall include: if no EOB was received, convincing evidence of carrier receipt of the provider request for an EOB;" The requestor has not submitted convincing evidence of carrier's receipt of the provider's request for an EOB. Therefore reimbursement is not recommended for the disputed charges.
	97265	\$43.00	\$0.00	No EOB	
	97250	\$43.00	\$0.00	No EOB	
	97150	\$27.00	\$0.00	No EOB	
	97110	\$245.00	\$0.00	No EOB	
	97750-MT	\$86.00	\$0.00	No EOB	
7/26/02	99213	\$50.00	\$0.00	No EOB	
	97265	\$43.00	\$0.00	No EOB	
	97250	\$43.00	\$0.00	No EOB	
	97150	\$27.00	\$0.00	No EOB	
	97110	\$245.00	\$0.00	No EOB	
TOTAL			\$0.00		Reimbursement is recommended in the amount of \$48.00.

### 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 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 3/7/02 through 9/6/02 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 1<sup>st</sup> day of November 2004.

Margaret Q. Ojeda  
Medical Dispute Resolution Officer

Medical Review Division  
MQO/mqo

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**NOTICE OF INDEPENDENT REVIEW DECISION**

September 22, 2004

**Re: IRO Case # M5-04-3055**

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is board Certified in Physical Medicine and Rehabilitation, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting 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 referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

#### Medical Information Reviewed

1. Table of disputed services
2. Explanation of benefits
3. Operative report 3/29/02
4. Lumbar myelogram and post CT scan report 21/31/01
5. D.C. office visit reports
6. Second opinion reports 12/31/01, 11/20/01
7. Lumbar spine seven views 6/6/02
8. Subsequent medical reports 7/2/02, 9/4/02
9. Lumbar ROM assessment 7/2/02
10. D.C. office visit reports 3/7/02 – 6/3/03
11. Therapeutic procedures chart 7/8/02 – 8/21/02
12. Muscle strength testing report 8/12/02
13. D.C. initial medical report 10/26/99
14. Office visit reports 10/26/99 – 8/21/02

#### History

The patient is a 39-year-old male who developed low back pain while lifting, twisting and throwing 2x6 boards over his shoulder. He was initially treated with prescription medication and physical therapy. He underwent a series of epidural steroid injections that reportedly decreased his pain for 6-10 days. The patient then saw a chiropractor on 10/26/99 and began chiropractic treatment. The patient underwent L5-S1 fusion with instrumentation on 3/29/02.

#### Requested Service(s)

Office visits, joint mobilization, therapeutic procedure, myofascial release, therapeutic exercises 97110 3/7/02 –9/6/02

#### Decision

I disagree with the carrier's decision to deny follow up office visits on 3/7/02, 5/7/02, and 9/6/02, and I disagree with the denial of joint mobilization, myofascial release and one 15-minute unit of therapeutic exercises on each of the disputed dates of service.

I agree with the carrier's denial of all other requested services.

#### Rationale

The follow up office visits on 3/7/02, 5/7/02, and 9/6/02 involved an injured worker with his treating doctor. Since the patient's care was still ongoing, regular follow up with his treating doctor would be considered reasonable and necessary.

The office visits on the other dates were on dates that the patient was undergoing physical

therapy, and a follow up office visit would not be necessary or appropriate. In addition, the frequency of the follow up office visits certainly would not be medically necessary. Eight units of therapeutic exercises were billed for each of the disputed dates. This represents 15 minutes per unit, or two hours for therapeutic exercises alone on these dates. This, combined with the other modalities used increased the amount of physical therapy per date to nearly three hours. This amount of time is excessive and beyond any recognized medical guidelines. No more than one hour of physical therapy per date would be medically necessary. This would allow for one unit of therapeutic exercises during the physical therapy session.

The patient underwent a posterior lumbar interbody fusion on 3/29/02. Following a three-month period of healing, he was started on a six-week physical therapy program, including

joint mobilization, therapeutic procedure and myofascial release, which would be medically reasonable and necessary. However, only one unit of therapeutic exercises would be an appropriate part of his physical therapy treatment session for the disputed dates.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.