

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 May 20, 2004.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that CPT Codes 99213, 97110, 97250, 97265, and 97112 were not medically necessary. 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. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On July 14, 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 19 days of the requestor's receipt of the Notice.

- CPT Code 99213 for dates of service 07/26/03 and 07/31/03. EOBs were not submitted by either party and therefore will be reviewed per the 1996 Medical Fee Guideline. Per the 1996 Medical Fee Guideline, E&M Ground Rule (VI)(B) reimbursement in the amount of \$96.00 (\$48.00 x 2) is recommended.
- CPT Code 97110 for dates of service 07/26/03 and 07/31/03. EOBs were not submitted by either party and therefore will be reviewed per the 1996 Medical Fee Guideline. Per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(A)(9)(b) submitted 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.
- CPT Code 97250 for dates of service 07/26/03 and 07/31/03. EOBs were not submitted by either party and therefore will be reviewed per the 1996 Medical Fee Guideline. Per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(C)(3) reimbursement in the amount of \$86.00 (\$43.00 x 2) is recommended.
- CPT Code 97265 for dates of service 07/26/03 and 07/31/03. EOBs were not submitted by either party and therefore will be reviewed per the 1996 Medical Fee

Guideline. Per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(C)(3) reimbursement in the amount of \$86.00 (\$43.00 x 2) is recommended.

- CPT Code 97112 for dates of service 07/26/03 and 07/31/03. EOBs were not submitted by either party and therefore will be reviewed per the 1996 Medical Fee Guideline. Per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(A)(9)(b) submitted 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 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 date of service 07/26/03 and 07/31/03 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 Decision and Order is hereby issued this 29th day of October 2004.

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division

MF/mf  
Enclosure: IRO Decision

**MEDICAL REVIEW OF TEXAS**  
[IRO #5259]

**3402 Vanshire Drive**  
**Phone: 512-402-1400**

**Austin, Texas 78738**  
**FAX: 512-402-1012**

**NOTICE OF INDEPENDENT REVIEW DETERMINATION**

TWCC Case Number:	
MDR Tracking Number:	M5-04-3153-01
Name of Patient:	
Name of URA/Payer:	Pain & Recovery Clinic
Name of Provider: (ER, Hospital, or Other Facility)	Pain & Recovery Clinic
Name of Physician: (Treating or Requesting)	Warren B. Dailey, MD

July 23, 2004

An independent review of the above-referenced case has been completed by a medical physician board certified in physical medicine and rehabilitation. 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: Rosalinda Lopez, Texas Workers Compensation Commission

### CLINICAL HISTORY

This is a 37 year old lady who sustained a pin in type injury between two automobiles. The injury was to both knees. There was no identification of an acute orthopedic pathology. Within four days the claimant was started on cryotherapy, hot packs, electrical muscle stimulation, ultra-sound, joint mobilization and myofascial release. (All before making a definitive diagnosis). MRI demonstrated early degenerative changes to include a Grade I chondromalacia patella. The physical modality care was done under the auspices of a chiropractor. An arthroscopic procedure was completed for the left knee on August 25, 2003. In September 2003 an FCE was completed. The Designated Doctor assigned a 3% impairment rating as of January 6, 2004.

### REQUESTED SERVICE(S)

99213 - Office visits  
97110 - Therapeutic exercise  
97250 - Myofascial release  
97265 - Joint mobilization  
97112 - Neuromuscular re-education

### DECISION

Denied. None of these assessments, treatments or modalities was clinically indicated or reasonable and necessary care for an intra-articular knee injury

### RATIONALE/BASIS FOR DECISION

For the most part, it is the same diagnosis codes used three times a week for five weeks. The first code, 99213, is for a patient visit that requires evaluation for an expanded problem and expanded history. The diagnosis was made and there was no intervening problems that required an expanded problem focused history or expanded problem focused examination or any new decision making on a three times a week basis for the dates noted. This is clearly excessive billing.

The second code 97110 requires one-on-one contact. The post-injury treatment for an intra-articular (meniscal) lesion would not require such intensive interaction. In that there had been a number of therapy visits, and noting the types of exercises involved to the knee injured patient; the proper procedures would have been almost second nature and completely memorized. This level of interaction would not be required two months after the date of injury.

The remaining codes, myofascial release, joint mobilization, and neuromuscular re-education are related to chiropractic care. Chiropractic treatment is the subject of much debate and has only shown very limited efficacy in studies. Moreover, these types of modalities are not indicated for intra-articular knee injuries.

Therefore, noting that the physical examination initially reported medial and lateral joint line tenderness, and the MRI obtained shortly thereafter noted meniscal lesion; the daily progress notes are fairly boilerplate indicating no expanded problem assessment or evaluation and the prevailing standard of care for the pre-operative meniscal lesion does not include joint mobilization or neuro-muscular re-education; the care being discussed was excessive, not reasonable and necessary and not clinically indicated. The determination made is endorsed.