

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 5-27-04.

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** 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. The ultrasound treatments and two units of therapeutic exercises per date of service from 5-27-03 through 6-19-03 were **found** to be medically necessary. The hot-cold packs and therapeutic exercises in excess of two units per date of service **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

On 7-14-04, 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.

- CPT Code 90855 was denied for R on dates of service 6-23-03, 6-30-03, 7-7-03 and 7-21-03. Review of the file indicates that the insurance carrier has accepted the left knee and ankle injury as compensable. Treating diagnoses are sprain/strain of an unspecified site of knee and leg. Therefore, this review will be per the 96 MFG which is \$3.00 per minute. **Recommend reimbursement of \$660.00.**
- CPT Code 90855 was denied for R on dates of service 8-4-03 and 8-13-03. CPT Code 90855 is not a valid CPT Code according to the Medicare Fee Schedule. **Recommend no reimbursement.**
- CPT Codes 97110, 97035, and 97010 were denied for L "Referral Health Care Provider performed Treatment/Service without the Treating Doctor's approval." Review of the file reveals that there is no documentation substantiating that the Treating Doctor referred the patient to the doctor who performed the services. There was also no communication to the Treating Doctor regarding these services per the Referred Doctor section of the 96 MFG Guidelines - "The referral doctor shall only initiate treatment if approved or recommended by the treating doctor. Once the

referral doctor initiates treatment, communication shall continue between the treating doctor and the referral doctor.” **Recommend no reimbursement.**

- CPT Code 90812 for date of service 7-14-03 was billed by the requestor and denied by the carrier. This is not a valid CPT Code according to the 96 MFG Guidelines. **Recommend no reimbursement.**
- CPT Code 97265 for date of service 7-16-03 was billed by the requestor and denied by the carrier. Neither the requestor nor the respondent submitted EOB’s and the respondent did not timely respond to the request for additional information. Since the carrier did not provide a valid basis for the denial of this service, it will be reviewed in accordance with the 96 MFG guidelines. **Reimbursement is recommended in the amount of \$43.00.**
- CPT Code 97010 for date of service 7-16-03 was billed by the requestor and denied by the carrier. Neither the requestor nor the respondent submitted EOB’s and the respondent did not timely respond to the request for additional information. Since the carrier did not provide a valid basis for the denial of this service, it will be reviewed in accordance with the 96 MFG guidelines. **Reimbursement is recommended in the amount of \$11.00.**
- CPT Code 97035 for date of service 7-16-03 was billed by the requestor and denied by the carrier. Neither the requestor nor the respondent submitted EOB’s and the respondent did not timely respond to the request for additional information. Since the carrier did not provide a valid basis for the denial of this service, it will be reviewed in accordance with the 96 MFG guidelines. **Reimbursement is recommended in the amount of \$22.00.**
- Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this Code both with respect to the medical necessity of one-on-one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes "one-on-one." Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the 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. **Additional reimbursement for CPT Code 97110 for 7-16-03 is not recommended.**

Pursuant to 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) for dates of service through July 31, 2003;
- 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 for dates of service 5-27-03 through 7-21-03 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 6th day of October, 2004.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision

NOTICE OF INDEPENDENT REVIEW DECISION

August 18, 2004

Program Administrator
Medical Review Division
Texas Workers Compensation Commission
7551 Metro Center Drive, Suite 100, MS 48
Austin, TX 78744-1609

RE: Injured Worker: _____
MDR Tracking #: M5-04-3270-01
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) 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 TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered 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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. TMF's health care professional 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 TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Clinical History

This 53 year-old firefighter suffered a left ankle and knee injury on 07/01/01 when he stepped in a hole, twisting his leg. He was originally treated with passive therapies, occupational therapy with rehabilitation, and a home exercise program. The pain was still present but slowly resolving when he reported that the injury was aggravated on 12/04/02 during his designated doctor exam. Since that time he has reported increased, constant pain to the left ankle. He was treated with exercise, hot/cold packs, and ultrasound from 05/27/03 through 07/28/03.

Requested Service(s)

Hot/cold pack therapy, therapeutic exercises, and ultrasound for dates of service 05/27/03 through 06/19/03

Decision

It is determined that ultrasound treatments and two units of therapeutic exercises per date of service are medically necessary to treat this patient's medical condition from 05/27/03 through 06/19/03. However, the hot/cold packs and therapeutic exercises in excess of two units per date of service are not medically necessary to treat this patient's medical condition from 05/27/03 through 06/19/03.

Rationale/Basis for Decision

This patient was injured over two years ago and since that time he has participated in extensive outpatient therapy and rehabilitation, as well as home-based exercise programs. However, despite the protracted treatment time, the documentation adequately demonstrated that the patient was still symptomatic and had positive objective findings on magnetic resonance imaging (MRI) and on a three-phase bone scan. In addition, the records demonstrated that the patient's range of motion significantly improved from 05/23/03 and when it was rechecked on 06/23/03. Therefore, the medical necessity of the outpatient ultrasound treatments and thirty minutes (two units) of therapeutic exercises during this time frame was supported.

Insofar as the hot/cold pack therapies and the additional units of therapeutic exercises were concerned, the records reflected that the patient had been dispensed a Theraband™ exerciser and a hot/cold pack for at-home use. Additionally, the only body area receiving

treatment was the ankle. Therefore, two units of therapy were appropriate for medically necessary exercises.

Therefore, it is determined that ultrasound treatments and two units of therapeutic exercise per date of service are medically necessary to treat this patient's medical condition from 05/27/03 through 06/19/03. However, the hot/cold packs and therapeutic exercises in excess of two units per date of service are not medically necessary to treat this patient's medical condition from 05/27/03 through 06/19/03.

Sincerely,

Gordon B. Strom, Jr., MD
Director of Medical Assessment

GBS:vn