

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER: 453-05-1995.M5

MDR Tracking Number: M5-04-3458-01

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 June 10, 2004.

The Division has reviewed the enclosed 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 is 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 the matters of medical necessity, the required report (excluding 99080-73) therapeutic procedures, office visits, joint mobilization, myofascial release, massage, therapeutic exercises, physical performance testing, muscle testing, chiropractic manipulative treatment, supplies and materials, range of motion, mechanical traction, and unlisted therapeutic procedures from 07/18/03 through 08/08/03 **were found to be medically necessary**.

The required report (excluding 99080-73), therapeutic procedures, office visits, joint mobilization, myofascial release, massage, therapeutic exercises, physical performance testing, muscle testing, chiropractic manipulative treatment, supplies and materials, range of motion, mechanical traction, and unlisted therapeutic procedures from 08/11/03 through 10/28/03 **were not found to be medically necessary**.

The respondent raised no other reasons for denying reimbursement for required report (excluding 99080-73), therapeutic procedures, office visits, joint mobilization, myofascial release, massage, therapeutic exercises, physical performance testing, muscle testing, chiropractic manipulative treatment, supplies and materials, range of motion, mechanical traction, and unlisted therapeutic procedures.

On July 19, 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.

- CPT Code 97250 for date of service 06/25/03. The carrier submitted an EOB showing payment was made for this date of service. The health care provider's billing agent was contacted and revealed the payment has never been received. Therefore, per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(A)(10)(a) reimbursement in the amount of \$43.00 is recommended.
- CPT Code 97110 for date of service 06/25/03. Carrier has submitted an EOB showing payment was made. The health care provider's billing agent was contacted and revealed the payment has never been received. Consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matter in light of all the Commission requirements for proper documentation. The MRD declines to order payment as the SOAP notes did not identify the severity of the injury to warrant exclusive one-on-one therapy. Additional reimbursement is not recommended.
- CPT Code 97530 for date of service 06/25/03. The carrier submitted an EOB showing payment was made for this date of service. The health care provider's billing agent was contacted and revealed the payment has never been received. Therefore, per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(A)(9)(b) reimbursement in the amount of \$27.00 is recommended.
- CPT Code 95851 (4 units) for date of service 06/27/03 denied as "G". The carrier did not specify which service range of motion testing was global to, therefore, per the 1996 Medical Fee Guideline, Medicine Ground Rule (E)(4) reimbursement in the amount of \$144.00 (\$36.00 x 4) is recommended.
- CPT Code 97265 for dates of service 07/02/03 and 07/03/03 denied as "G". The carrier did not specify which service range of motion testing was global to, therefore, per the 1996 Medical Fee Guideline, Medicine Ground Rule (C)(3) reimbursement in the amount of \$86.00 (\$43.00 x 2) is recommended.
- CPT Code 99080-73 (3) for dates of service 07/21/03, not EOB submitted by either party; 08/12/03 and 09/24/03 denied as "F, 284 – No allowance was recommended as this procedure indicates a status "B". The TWC-73 is a required report and the

Medical Review Division has jurisdiction in this matter. Therefore, per Rules 129.5 and 133.106(f) reimbursement in the amount of \$45.00 (\$15.00 x 3) is recommended.

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 is hereby issued this 4<sup>th</sup> day October 2004.

Marguerite Foster  
Medical Dispute Resolution Officer  
Medical Review Division

MF/mf

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 **06/25/03** through **09/24/03** in this dispute.

This Order is hereby issued this 4<sup>th</sup> day of October, 2004

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/ms

Enclosure: IRO decision

#### NOTICE OF INDEPENDENT REVIEW DECISION

August 25, 2004

**AMENDED LETTER 08/31/04**

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 #: M5-04-3458-01  
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 34 year-old female injured her right shoulder and low back on \_\_\_\_ while pulling on heavy equipment. Her x-rays and magnetic resonance imaging (MRI) are reported as normal and her diagnosis is listed as right shoulder, neck, and back strain. She has been treated with physical therapy, medications, transcutaneous electrical nerve stimulation (TENS), active and passive chiropractic treatment, and work hardening.

### Requested Service(s)

Required report (excluding 99080-73), therapeutic procedures, office visits, joint mobilization, myofascial release, massage, therapeutic exercises, physical performance testing, muscle testing, chiropractic manipulative treatment, supplies and materials, range of motion, mechanical traction, and unlisted therapeutic procedures for dates of service 07/18/03 through 10/28/03.

### Decision

It is determined that there is medical necessity for the required report (excluding 99080-73), therapeutic procedures, office visits, joint mobilization, myofascial release, massage, therapeutic exercises, physical performance testing, muscle testing, chiropractic manipulative treatment, supplies and materials, range of motion, mechanical traction, and unlisted therapeutic procedures treatment of this patient's medical condition from 07/18/03 through 08/08/03.

However, the required report (excluding 99080-73), therapeutic procedures, office visits, joint mobilization, myofascial release, massage, therapeutic exercises, physical performance testing, muscle testing, chiropractic manipulative treatment, supplies and materials, range of motion, mechanical traction, and unlisted therapeutic procedures from 08/09/03 through 10/28/03 are determined to be not medically necessary to treat this patient's medical condition.

### Rationale/Basis for Decision

The records indicate that the patient was injured on the job on \_\_\_\_\_. She was pulling pallets at work and heard a "pop" in her right shoulder blade and also developed pain in her neck and low back. She went to the emergency room and was referred by her employer to a doctor, where she received one week of active and passive physical medicine with no relief. A thorough examination was performed on 06/09/03 and a treatment program was begun. A right shoulder MRI was ordered which revealed a small amount of fluid in the subacromial sub-deltoid bursa consistent with mild bursitis. A lumbar MRI revealed mild diffuse disc desiccation with mild right para-central and posterior encroachment. A neurological consultation was performed on 07/29/03 and the doctor indicated that the usual response time for conservative therapy for these types of injuries is anywhere from 6 to 8 weeks.

The patient's pain score on her initial examination date of 06/09/03 was 6 to 7 on a scale of 10. After one month of treatment (on 07/09/03), the records indicate a continued pain score of 7, and on 08/08/03 the score was still a 6 on the pain scale. The initial examination revealed she was 64 inches in height and weighed 201 pounds.

National treatment guidelines allow for physical medicine treatment for injuries of this nature. The guidelines do not allow the intensity, frequency, and duration of treatment that this patient has received for a strain/sprain injury with minimal subjective improvement.

In conclusion, the records and documentation are sufficient for the patient to receive all services during the dates of 07/18/03 through 08/08/03. These dates allowed the patient to receive two months of an aggressive passive,

active, and chiropractic manipulative therapy program. However, the services provided from 08/09/03 through 10/28/03 were not medically necessary for the treatment of the patient's on-the-job injury.

Sincerely,

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

GBS:vn  
Attachment