

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:  
SOAH DOCKET NO. 453-05-4451.M5**

MDR Tracking Number: M5-04-3475-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 6-10-04.

The IRO reviewed office visits, myofascial release, joint mobilization, massage, electrical stimulation, mechanical traction, diathermy, range of motion measurements, physical performance test, muscle testing, MT, chiropractic manipulation, unlisted therapeutic procedure, group therapeutic procedure, supplies and materials rendered from 6-12-03 through 11-14-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(r)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

The IRO concluded that the following treatments and services were not medically necessary: all office visits, traction and muscle testing from 6-12-03 through 8-4-03; all office visits (except DOS 10-2-03) and ROM testing from 9-23-03 through 11-3-03; muscle testing, physical performance testing and ROM testing on 10-16-03 and 10-21-03; all treatment and services in dispute from 8-6-03 through 9-9-03; all treatment and services in dispute after 11-3-03.

The IRO found that all remaining treatment and services in dispute during the period of 6-12-03 through 8-4-03, and from 9-23-03 through 11-3-03 were medically necessary.

On this basis, the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 August 26, 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.

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

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
6-10-03	99070	\$8.00	\$0.00	M	DOP	Rule 133.307(g)(3)(D) Section 413.011(d)	Requestor did not support amount billed was fair and reasonable and complied with statute.
8-4-03	99070	\$8.00	\$0.00	N		CPT Code Descriptor	Requestor documented Analgesic balm, reimbursement of \$8.00 is recommended.
10-22-03	99070	\$8.00	\$0.00	F		CPT Code Descriptor	Requestor documented Analgesic balm, reimbursement of \$8.00 is recommended.
6-12-03	99070	\$25.00	\$0.00	G		CPT Code Descriptor	TNS patches were provided and are not global to other services provided on this date, reimbursement of \$25.00 is recommended.
7-8-03	99070	\$17.50	\$0.00	M		Rule 133.307(g)(3)(D) Section 413.011(d)	Requestor did not support amount billed was fair and reasonable and complied with statute.
10-22-03	99070	\$37.00	\$18.00	M			
6-23-03 7-17-03 7-22-03 9-25-03	99080-73	\$15.00	\$0.00	N, F	\$15.00	Rule 129.5(d)	Reports for 6-23-03 and 7-22-03 were not submitted to support billed service; therefore, no reimbursement is recommended.  There were minor changes in 7-17-03 and 7-29-03 report that do not support compliance with statute.  Reimbursement for the 9-25-03 is recommended of \$15.00.
6-25-03	97014	\$17.00	\$0.00	F	\$15.00	CPT Code Descriptor	MAR reimbursement of \$15.00 is recommended.
6-25-03	97012	\$17.00	\$0.00	F	\$12.00	CPT Code Descriptor	MAR reimbursement of \$12.00 is recommended.
7-18-03	97110(4)	\$140.00	\$70.00	F	\$35.00 / 15 min	Medicine GR	See Rationale below

7-30-03	97110(6)	\$210.00	\$70.00	F	\$35.00 / 15 min	(l)(A)(9)(b)	
8-4-03	97110	\$260.00	\$97.50	F	\$32.64/15 min	Rule 134.2021	
8-6-03			\$97.50				
8-8-03			\$97.50				
10-29-03			\$162.50				
11-3-03			\$162.50				
11-10-03			\$0.00				
10-7-03			97110				
10-22-03	97110	\$227.50	\$162.50	F			
10-24-03							
10-27-03							
11-5-03	97110	\$162.50	\$0.00	F			
7-22-03	99214	\$75.00	\$0.00	N	\$71.00	CPT Code Descriptor	Report does not meet 2/3 key components; therefore, will not recommend reimbursement.
9-25-03	95851	\$30.60	\$0.00	G	\$30.60	CPT Code Descriptor	ROM testing is not global to any service provided on this date, reimbursement of \$30.60 X 2 = \$61.20.
10-16-03							
9-26-03	97139EU	\$18.25	\$0.00	N	\$18.25	CPT Code Descriptor	Documentation supports reimbursement for physical therapy service = \$18.25 X 12 dates = \$219.00.
9-29-03							
9-30-03							
10-1-03							
10-2-03							
10-7-03							
10-8-03							
10-10-03							
10-13-03							
10-24-03							
11-5-03							
11-10-03							
10-1-03	97124	\$25.69	\$0.00	F	\$25.70	CPT Code Descriptor	MAR reimbursement of \$25.70 is recommended.
10-13-03	97024	\$5.53	\$0.00	F	\$5.53	CPT Code Descriptor	MAR reimbursement of \$5.53 X 3 = \$16.59 is recommended.
11-7-03							
11-10-03							
10-16-03	97750 (3)	\$100.20	\$0.00	G	\$33.40 3 = \$100.20	CPT Code Descriptor	Testing is not global to service provided on this date, reimbursement of \$100.20 is recommended.
11-7-03	97750 (4)	\$133.60	\$0.00	F	\$33.40 X 4 = \$133.60	CPT Code Descriptor	MAR reimbursement of \$133.60 is recommended.

10-31-03	99213	\$58.99	\$0.00	G	\$58.99	CPT Code Descriptor	Office visit is not global to service provided on this date, reimbursement of \$58.99 is recommended.
10-21-03	97750	\$133.60	\$0.00	G	\$33.40 X 4 = \$133.60	CPT Code Descriptor	Testing is not global to service provided on this date, reimbursement of \$133.60 is recommended.
11-5-03	99211	\$23.35	\$0.00	F	\$23.35	CPT Code Descriptor	MAR reimbursement of \$23.35 is recommended.
11-5-03 11-10-03	97150	\$21.37	\$0.00	F	\$21.37	CPT Code Descriptor	MAR reimbursement of \$21.37 X 2 = \$42.74 is recommended.
11-7-03	98943	\$27.97	\$0.00	F	NRF		
11-10-03	99212-25	\$41.91	\$0.00	F	\$41.90	CPT Code Descriptor	MAR reimbursement of \$41.90 is recommended.
TOTAL							The requestor is entitled to reimbursement of <b>\$1171.17.</b>

Rationale for 97110:

Recent review of disputes involving one-on-one 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 therapy notes for these dates of service do not support any clinical (mental or physical) reason as to why the patient could not have performed these exercises in a group setting, with supervision, as opposed to one-to-one therapy. The Requestor has failed to submit documentation to support reimbursement in accordance with the 1996 MFG, Rule 134.202 and 133.307(g)(3). Therefore, reimbursement is not recommended.

**ORDER.**

Pursuant to §§402.042, 413.016, 413.031, and 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) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 6-10-03 through 11-14-03 in this dispute.

This Order is hereby issued this 14 day of January, 2005.

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision

December 16, 2004

Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

**REVISED REPORT  
Revision to Decision**

Re: Medical Dispute Resolution  
MDR #: M5-04-3475-01  
TWCC#:  
Injured Employee:  
DOI:  
SS#:  
IRO Certificate No.: IRO 5055

Dear Ms. \_\_\_\_:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

## REVIEWER'S REPORT

### Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: letter of medical necessity, office notes, daily progress notes, therapeutic procedures, ROM tests, treatment plans, operative and radiology reports.

**Information provided by Respondent:** designated doctor exams.

### Clinical History:

Patient underwent physical medicine treatments and surgery after injuring her right shoulder at work on \_\_\_\_.

### Disputed Services:

Office visits, myofascial release, joint mobilization, massage, electrical stimulation, mechanical traction, diathermy, range of motion measurements, physical performance test, muscle testing, MT, chiropractic manipulation, unlisted therapeutic procedure, group therapeutic procedure, muscle testing, supplies and materials during the period of 06/12/03 through 11/14/03.

### Decision:

The reviewer partially agrees with the determination of the insurance carrier as follows:

#### Not medically necessary:

- all office visits, traction and muscle testing from 06/12/03 through 08/04/03.
- all office visits (except DOS 10/02/03) and ROM testing from 09/23/03 through 11/03/03.
- muscle testing, physical performance testing and ROM testing on 10/16/03 and 10/21/03.
- all treatment and services in dispute from 08/06/03 through 09/09/03.
- all treatment and services in dispute after 11/03/03.

#### Medically Necessary:

- all remaining treatment and services in dispute during the period of 06/12/03 through 08/04/03, and from 09/23/03 through 11/03/03.

### Rationale:

Based on the history and examination of this patient, certain passive and active treatments for the six-week period from 06/12/03 until 08/04/03 would be indicated. However, no documentation was provided to indicate the medical necessity of traction (97012) for a shoulder injury during this time frame. The diagnosis and severity of the injury does not adequately establish the medical necessity of an expanded problem-focused evaluation and management (E&M) service on every routine encounter, particularly during an already prescribed treatment plan, making office visits during this time not medically necessary. The office visit on 07/30/03 was not medically indicated since a higher level 99214 examination had been performed just eight days prior on 07/22/03. The muscle testing (97750-MT) on 07/24/03 and 07/29/03 is denied for the same reason since the treating doctor had just performed a detailed problem-focused re-evaluation (99214) on 07/22/03 and those muscle tests should have been a component of that examination. There was also no documentation supplied that would support the

medical necessity of performing these tests again 2 days later and then again 5 days later.

Based on the fact that shoulder surgery was performed on 09/11/03, post-operative rehabilitation therapy for a period of six weeks would be indicated. Required medical reports were medically unnecessary since the patient would not be expected to return to work just two weeks after surgery. The office visits (99211-25) and the 10/13/03 office visit (99212-25) are denied because they were a component of the chiropractic manipulative service (98943) already performed and reported on the same date of service, and as such, would be duplicative. (The office visit on 10/02/03 was medically necessary since chiropractic manipulation (98943) was not performed on that date.) No documentation was provided to indicate the medical necessity of repeat muscle testing (97750) just 5 days later on 10/21/03.

All treatments from 08/06/03 through 09/09/03 were not medically necessary since no documentation was supplied to indicate that the treatment met the criteria of Texas Labor Code 408.021 by relieving the patient's pain or promoting recovery. Specifically, the patient's pain level worsened (4/10 on 08/04/03 increasing to 6/10 in early September 2003) and more importantly, surgical intervention was ultimately necessary. Moreover, shoulder ranges of motion did not significantly improve during the time between the 07/22/03 and 09/09/03 examinations, with shoulder abduction and adduction actually decreasing.

No documentation was provided to indicate that further post-operative treatment after the six-week period ending on 11/03/03 was medically necessary.

Sincerely,

Gilbert Prud'homme  
Secretary & General Counsel

GP:thh