

MDR Tracking Number: M5-04-3756-01 (**Previously M5-04-1888-01**)

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 2-25-04.

This Amended Decision and Order supersedes all previous decisions rendered in this medical dispute involving the above requestor and respondent.

The Medical Review Division Decision of 6-08-04 was withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 7-01-04. A copy of the Notice of Withdrawal is reflected in the Commission Case file. A Decision was issued in favor of the respondent.

The Requestor Appealed the Order to the Chief Clerk of Proceedings. The Requestor requests that the Decision and Order of the IRO regarding the necessity of assessment of Impairment Rating be overturned. The Medical Review Division reviewed and agreed with the Petitioner's request, thereby resulting in this issuance of the Notice to Withdraw.

The Requestor submitted a request for medical dispute resolution on 2-25-04 with regards to a work related or medical disability examination by the treating doctor for a Maximum Medical Improvement/Impairment Rating, as well as for a work status report (TWCC -73). The MMI/IR examination was denied by the Respondent for medical necessity, sent to the IRO for review, and the IRO concurred with the Respondent that the exam was not medically necessary.

In accordance with Rule 130.2 (a), "A treating doctor shall either examine the injured employee (employee) and determine if the employee has any permanent impairment as a result of the compensable injury as soon as the doctor anticipates that the employee will have no further material recovery from or lasting improvement to the work-related injury or illness, based on reasonable medical probability, or have another authorized doctor do so."

Therefore, the disputed services will be reviewed in accordance with the Medical Fee Guidelines. According to Rule 134.202 (a)(1)(2), Medical Fee Guidelines, this section shall be applicable for professional medical services (health care other than prescription drugs or medicine, and the facility services of a hospital or other health care facility) provided in the Texas Workers' Compensation system...and is applicable for professional medical services provided on or after September 1, 2002. The disputed service was rendered on December 22, 2003.

According to Rule 134.202 (6)(B)(iii), If the examining doctor determines MMI has been reached and an IR evaluation is performed, both the MMI evaluation and the IR evaluation portions of the examination shall be billed and reimbursed in accordance with subparagraphs (C) and (D).

According to Rule 134.202 (6)(A) The total MAR for an MMI/IR examination shall be equal to the MMI evaluation reimbursement plus the reimbursement for the body area(s) evaluated for the assignment of an IR.

According to the TWCC Rule 134.202 (e)(6)(C)(i) an examining doctor who is the treating doctor, shall bill using the ‘Work related or medical disability examination by the treating physician...’. (I)Reimbursement shall be the applicable established patient office visit level associated with the examination; (II) modifiers “V1, V2, V3, V4, or V5” shall be added to the CPT code to correspond with the last digit of the applicable office visit. In accordance with rule 134.202 (e)(6)(D)(III), If the examining doctor performs the MMI examination and the IR testing of the musculoskeletal body area(s), the examining doctor shall bill using the appropriate MMI CPT code with modifier "WP." Reimbursement shall be 100% of the total MAR.

According to the TWCC Rule 134.202 (e)(6)(D)(II)(-b-)(-1-), “If a full physical evaluation, with range of motion, is performed: \$300 for the first musculoskeletal body area;” According to the TWCC Rule 134.202 (e)(6)(D)(II)(-a-), “\$150 for each body area if the Diagnosis Related Estimates (DRE) method found in the AMA Guides 4<sup>th</sup> edition is used.” A review of the Requestors’ MMI/IR evaluation report dated 12/22/03 revealed the examining doctor performed the MMI/IR evaluation on the left knee (\$300.00), and Spine DRE—cervical and lumbar (\$150.00). The Requestor billed the above services using CPT code 99455 WP V4, for a total amount of \$551.74, and also billed for CPT code 99080-73 for \$15. The Requestor is therefore entitled to reimbursement in the amount of \$566.74.

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 \$460.00** 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.

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor is entitled to reimbursement for CPT codes 99455-WP V4 and 99080-73 in the amount of **\$566.74**, and reimbursement of the IRO fee in the amount of **\$460**. Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Division hereby **ORDERS** the Respondent to remit **\$1026.74** plus all accrued interest due at the time of payment to the Requestor within 20-days receipt of this Order.

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 Amended Decision and Order is hereby issued this 3<sup>rd</sup> day of August 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division

May 10, 2004

MDR #: M5-04-1888-01

**New MDR #: M5-04-3756-01**

IRO Certificate No.: 5055

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ 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 \_\_\_ 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 who is currently on the TWCC Approved Doctor List.

#### REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB

Carrier's and Treating Doctor's Correspondence: 10/22/03 – 04/07/04

Office notes and reports: 10/27/03 – 12/19/03

Hospital admission information 10/21/03

Three views of lumbar spine & two views left knee 10/21/03

Clinical History:

This female patient suffered a sprain/strain injury to her neck and lower back in a work-related accident on \_\_\_.

Disputed Services:

Treating doctor exam on 12/22/03.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the exam on 12/22/03 was not medically necessary in this case.

Rationale:

As of November 3, 2003 this patient was on a modified work status and performing clerical duties. The current TWCC #73 in conjunction with her MRI status, presumably of 12/22/03, would be

necessary to clarify her current employment status. The TWCC rules do not mandate an impairment rating.

This is left up to the treating doctor's discretion ("barring intervention by RNE or appointed designated doctor") if a treating doctor suspects the patient has sustained an injury, which has left impaired physical functioning. The MMI and impairment report is virtually identical to one of the routine 4-week progress reports with the exception of the included statements for the patient's disqualification for any DRE categories. According to the documentation submitted, there was no diagnostic evidence of clinical pictures to indicate that this patient might have even remotely qualified for any DRE categories. This report was a progress/final examination with no impairment.

The general source of criteria utilized in reaching this decision was the documentation submitted by the treating doctor in comparison to the MMI/impairment report by many of his peers and the TWCC rules, chapter 30, subchapter A, sections 130.1 through 130.4.

Sincerely,