

MDR Tracking Number: M5-04-3770-01

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, 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 07-01-04.

The IRO reviewed physical medicine services rendered from 07-18-03 through 08-28-03 that were denied based upon "V".

The IRO determined that the myofascial release procedures (97250) unattended electrical stimulation (97014/G0283) ultrasound treatments (97035) and hot/cold pack applications (97010) **were** medically necessary. The IRO determined that all other services and procedures **were not** medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. 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.

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 09-01-04, 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 99213 date of service 07-18-03 denied with denial code "G" (global). The carrier did not specify which service code 99213 was global to. Per Rule 133.304(c) the service is reviewed per the 96 Medical Fee Guideline. Reimbursement is recommended in the amount of \$48.00.

CPT code 99080-73 date of service 08-28-03 denied with denial code "V" (unnecessary medical with peer review). The TWCC-73 is a required report and is not subject to an IRO review. The Medical Review division has jurisdiction in this matter; therefore, recommends reimbursement in the amount of \$15.00 per Rule 133.106(f).

## 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) and in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202(c), 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 07-18-03 through 08-28-03 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 Findings and Decision and Order are hereby issued this 8th day of November 2004.

Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision

### **MEDICAL REVIEW OF TEXAS**

[IRO #5259]

**3402 Vanshire Drive**

**Austin, Texas 78738**

**Phone: 512-402-1400**

**FAX: 512-402-1012**

## **NOTICE OF INDEPENDENT REVIEW DETERMINATION**

### **REVISION II - 10/28/04**

TWCC Case Number:	
MDR Tracking Number:	M5-04-3770-01
Name of Patient:	
Name of URA/Payer:	Neuromuscular Institute of Texas
Name of Provider: (ER, Hospital, or Other Facility)	Neuromuscular Institute of Texas
Name of Physician: (Treating or Requesting)	Daniel Brad Burdin, DC

August 9, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. 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.

Notice of Independent Review Determination

Sincerely,

Michael S. Lifshen, MD  
Medical Director

cc: Texas Workers Compensation Commission

August 9, 2004

**REVISION II - 10/28/04**

Notice of Independent Review Determination

RE:

CLINICAL HISTORY

Patient is a 44-year-old male mechanic for [redacted] who, on [redacted], slipped on some grease with his left foot and with his right knee flexed, fell backwards, landing onto his right foot and toes. He sprang back upwards and in so doing, felt a "snap" and sudden pain in his medial right thigh and in his right lower back. He reported the injury to his supervisor, yet continued working until 12/09/02 when the pain intensified to the point where he took 12/10/02 off and then presented himself to a doctor of chiropractic. Extensive physical therapy and rehabilitation ensued, followed by SI joint and gluteal trigger point injections and further therapy. His past medical history was positive for a

previous lumbar interbody fusion surgery in 1991, a past right meniscal tear with resultant surgery in 1997, and a past left meniscal tear that resulted in a 2001 surgical procedure. The patient was eventually deemed MMI at 5% whole-person impairment on 12/24/03.

#### REQUESTED SERVICE(S)

Physical medicine service from dates of service 07/18/03 through 08/28/03.

#### DECISION

The office visit (99213) on date of service 07/18/03 is approved, as are all myofascial release procedures (97250), all unattended electrical stimulation therapies (97014/G0283), all ultrasound treatments (97035), and all hot/cold pack applications (97010) within the specified date range.

All remaining services and procedures are denied.

#### RATIONALE/BASIS FOR DECISION

First of all, the record well established a compensable injury to the lower back and right lower extremity. There was also adequate rationale provided for the somewhat protracted treatment time in that the patient had sustained previous injuries – even surgeries – to the affected areas. Further, the records documented that the patient had undergone injections just prior to and during the treatment time in dispute, so post-August 9, 2004

injection rehabilitation was medically necessary. Also, the patient was seen by a designated doctor – who carries presumptive weight – on 06/25/03 who opined that the patient was not MMI, required additional treatment and therapy, and predicted that the patient would be MMI on or around 10/25/03. Finally, the records show in the final functional capacity evaluation that the patient responded to care and returned to full-duty, thereby meeting the statutory requirements of Texas Labor Code 408.021 in that the therapy rendered relieved the patient's symptoms, promoted his recovery, and enhanced his ability to return to work.

However, insofar as the office visits (99213) were concerned, the "Daily Treatment Logs" for the dates in dispute indicated that spinal manipulation was not performed on those encounters. Therefore, neither the diagnosis nor the records submitted supported the medical necessity of performing an expanded problem-focused evaluation and management service on each and every patient encounter, particularly during an already-established treatment plan.

Finally, in terms of the last date of service (08/28/03), with the exception of the properly executed and documented TWCC-73 form, the records submitted

were devoid of any treatment notes whatsoever for that date of service. Therefore, the medical necessity of the office visit (99213), the analysis of the computer data service (99090), and the dispensed Biofreeze™ was not supported.