

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:**

SOAH DOCKET NO. 453-05-1630.M5

MDR Tracking Number: M5-04-3851-01

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 04-30-04.

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 office visits, ultrasound, 4 units of aquatic therapy and 4 units of therapeutic exercises rendered from 1/12/04 through 1/23/04 **were found** to be medically necessary. The electrical stimulation, 2 units of aquatic therapy and 2 units of therapeutic exercises rendered from /12/04 through 1/23/04 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 August 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 Codes 99214 for date of service 1/9/04: Review of the requester's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the recon HCFA reflected proof of submission. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service for this code. Rule 134.202 (d) states:

- (d) In all cases, reimbursement shall be the **least** of the:
- (1) MAR amount as established by this rule;
 - (2) Health care provider's usual and customary charge; or
 - (3) Health care provider's workers' compensation negotiated and/or contracted amount that applies to the billed service.

The requestor billed \$92.30, however, per Rule 134.202 c (1), the reimbursable amount is \$96.91. Based on the above guidelines, **reimbursement is recommended** in the amount of \$92.30.

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 Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (b) 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 1/09/04 through 1/23/04 as outlined above 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.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

Amended Independent Review Decision

August 21, 2004

David Martinez
TWCC Medical Dispute Resolution
7551 Metro Center Suite 100
Austin, TX 78744

Patient:
TWCC #:
MDR Tracking #: M5-04-3851-01
IRO #: 5284

Specialty IRO has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to Specialty IRO for independent review in accordance with TWCC Rule 133.308, which allows for medical dispute resolution by an IRO.

Specialty IRO has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Chiropractor. The Specialty IRO health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to Specialty IRO for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___ was injured in a work related injury on ___. The patient injured his low back while working for ___. He was bending down to pick up a toolbox full of tools and he turned his body to the right to stand back up while carrying the tools. The patient noted that he had radiating pain from his low back down the back of his right leg. The patient was initially seen at Valley Day and Night Clinic for treatment of his injuries. He subsequently sought care at First Rio Valley Medical (FRVM). The patient has been under the care of this clinic since 10/15/99 through the dates under review.

The records include but are not limited to the following: The patient had an initial examination with FRVM on 10/15/99. The patient had an MRI of the lumbar spine on 11/18/99. The patient had a subsequent MRI on 7/2/02. The MRI's show 6 and 7 mm disc lesions at L5/S1. The patient had a reexamination on 1/9/04 and 1/27/04. Daily SOAP notes from 1/12/04 through 1/23/04 are available for review. An IME by Dr. W is performed on 5/24/02. Records were reviewed from both the carrier and treating physician.

DISPUTED SERVICES

The services in dispute are office visits (99213), ultrasound therapy (97035), electrical stimulation (97032), aquatic therapy (97113) and therapeutic exercises (97110) for the dates of service 1-12-04 through 1-23-04

DECISION

The reviewer disagrees with the previous adverse decision regarding office visits 99213 for the dates under review.

The reviewer disagrees with the previous adverse decision regarding 97035 for the dates under review.

The reviewer agrees with the previous adverse decision regarding 97032 for the dates under review.

The reviewer has a split decision regarding 97113 and 97110. The reviewer states that four (4) units of 97113 or 97110 for each date under review are clinically necessary, but any additional units beyond four (4) per visit are unnecessary.

Specifically

Date	CPT	Unit	Decision
1-12-04	99213	1	disagree with previous adverse decision
1-12-04	97035	1	disagree with previous adverse decision
1-12-04	97032	1	agree with previous adverse decision
1-12-04	97113	6	split decision, 4 units would be appropriate
1-14-04	97035	1	disagree with previous adverse decision
1-14-04	99213	1	disagree with previous adverse decision
1-14-04	97113	6	split decision, 4 units would be appropriate
1-14-04	97032	1	agree with previous adverse decision
1-15-04	97035	1	disagree with previous adverse decision
1-15-04	97032	1	agree with previous adverse decision
1-15-04	99213	1	disagree with previous adverse decision
1-15-04	97113	6	split decision, 4 units would be appropriate
1-19-04	97035	1	disagree with previous adverse decision
1-19-04	97110	6	split decision, 4 units would be appropriate
1-19-04	99213	1	disagree with previous adverse decision
1-19-04	97032	1	agree with previous adverse decision
1-21-04	97035	1	disagree with previous adverse decision
1-21-04	97032	1	agree with previous adverse decision
1-21-04	97110	6	split decision, 4 units would be appropriate
1-21-04	99213	1	disagree with previous adverse decision
1-23-04	99213	1	disagree with previous adverse decision
1-23-04	97035	1	disagree with previous adverse decision
1-23-04	97032	1	agree with previous adverse decision
1-23-04	97110	6	split decision, 4 units would be appropriate

BASIS FOR THE DECISION

The basis for the determination is based upon the Medical Disability Advisor and the Official Disability Guidelines in regards to treatment measures of the low back. Evidence Based Medical Guidelines were also used as a basis for this decision according to the reviewer. It should be

noted that there were no treatment notes immediately prior to the dates of service in question, nor were there dates of service after the dates of service in question. If the patient were undergoing continuous treatment from 1999 through 2004 then the treatment would be unreasonable. The records indicate that this treatment was due to an isolated incident or exacerbation of the patient's condition from the ___ injury. The patient would be classified as a chronic low back patient undergoing an acute exacerbation. The treatment falls within the parameters of TLC 408.021. The initial examination of 1/9/04 is necessary to determine if the acute exacerbation is related to the initial injury. The subsequent six visits would be within the acceptable norm for an acute exacerbation of this nature. The documentation clearly indicates that the patient benefited from the care rendered; however, there is no documentation to indicate that the attended stimulation was required over the non attended stimulation. There is no documented clinical evidence to suggest that this patient would benefit from greater than one hour of aquatic therapy.

Specialty IRO has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Specialty IRO has made no determinations regarding benefits available under the injured employee's policy. Specialty IRO believes it has made a reasonable attempt to obtain all medical records for this review and afforded the requestor, respondent and treating doctor an opportunity to provide additional information in a convenient and timely manner.

As an officer of Specialty IRO, Inc, dba Specialty IRO, I certify that there is no known conflict between the reviewer, Specialty IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Sincerely,