

MDR Tracking Number: M5-04-3910-01

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 07-12-04.

The IRO reviewed work hardening initial and work hardening each additional hour rendered from 04-06-04 through 04-16-04 that were denied based "V".

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.

The IRO determined that work hardening initial (97545-WH-CA) **was** medically necessary and determined that the work hardening each additional hour (97546-WH-CA) **was not** medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 08-09-04, 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 **97545-WH-CA** and **97546-WH-CA** date of service 04-05-04 per the EOB from the respondent were paid. These codes will not be reviewed by the Medical Review Division.

CPT code **95851** date of service 02-02-04 denied with denial code "R" (Payment withheld pending further investigation of compensability and/or treatment). No TWCC-21 was filed with MDR. The requestor submitted relevant information to support delivery of service. Per the Medical Fee Guideline effective 08-01-03 reimbursement in the amount of \$24.88 (\$19.90 X 125%) is recommended.

CPT code **95831** date of service 02-04-04 denied with denial code "R" (Payment withheld pending further investigation of compensability and/or treatment). No TWCC-21 was filed with MDR. The requestor submitted relevant information to support delivery of service. Per the Medical Fee Guideline effective 08-01-03 reimbursement in the amount of \$29.10 (\$23.28 X 125%) is recommended.

CPT code **97110** date of service 02-18-04 denied with denial code "R". No TWCC-21 was filed with MDR. Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings 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 (MRD) has reviewed the matters in light of the Commission requirements for proper documentation.

The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

CPT code **95831** date of service 02-23-04 denied with denial code "F" (service listed under procedure code is included in a more comprehensive code which accurately describes the entire procedure performed). The requestor submitted relevant information to support delivery of service.

Per the Medical Fee Guideline effective 08-01-03 reimbursement in the amount of \$29.10 (\$23.38 X 125%) is recommended.

CPT code **95851** date of service 03-01-04 denied with denial code "F" (service listed under procedure code is included in a more comprehensive code which accurately describes the entire procedure performed). The requestor submitted relevant information to support delivery of service.

Per the Medical Fee Guideline effective 08-01-03 reimbursement in the amount of \$24.88 (\$19.90 X 125%) is recommended.

Review of the requestor's and respondent's documentation revealed that neither party submitted a copy of the EOB for CPT code **95831** date of service 03-22-04. Review of the reconsideration HFCA and a copy of a certified mail receipt reflected proof of submission to the respondent. Per Rule 133.308(f)(2)(3) reimbursement in the amount of \$29.10 (\$23.28 X 125%) is recommended.

CPT code **99212** and **97530** date of service 03-26-04 denied with denial code "L" (not treating doctor). The requestor did not submit information to rebut the reason for denial. No reimbursement is 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 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 Decision is applicable for dates of service 02-02-04 through 04-16-04 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 14th day of October 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

September 10, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-3910-01
TWCC #:
Injured Employee:
Requestor:
Respondent:
----- Case #:

----- has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ----- IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ----- for independent review in accordance with this Rule.

----- has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ----- external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ----- chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ----- for independent review. In addition, the ----- chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 46 year-old male who sustained a work related injury on ----- . The patient reported that while at work he was injured when he attempted to lift a heavy marble table top. The patient underwent an MRI of the right knee that was reported to have shown an intrasubstance tear of the ACL. On 1/15/04 the patient underwent knee surgery consisting of a complex-severe medial meniscal repair of the right knee followed by postoperative rehabilitation. During the postoperative treatment the patient changed treating doctors and

presented to the current treating chiropractor. The patient was initially evaluated on 1/30/04 and underwent an FCE on 3/29/04. The patient was treated with a work hardening program and released from care on 5/4/04 to return to work.

Requested Services

97545-WH-CA-Work Hard-Initial, 97546- WH-CA-Work Hard Each Add Hour from 4/6/04 through 4/16/04.

Documents and/or information used by the reviewer to reach a decision:

Documents Submitted by Requestor:

1. Position Letter 8/11/04
2. MMI/Impairment Eval 5/4/04
3. Operative Report 1/15/04
4. MRI report 12/4/03
5. SOAP Notes 2/2/04 – 4/23/04

Documents Submitted by Respondent:

1. No documents submitted

Decision

The Carrier's denial of authorization for the requested services is partially overturned.

Rationale/Basis for Decision

The ----- physician reviewer noted that this case concerns a 46 year-old male who sustained a work related injury to his right knee on -----. The ----- chiropractor reviewer also noted that the patient underwent right knee surgery on 1/15/04 followed by postoperative rehabilitation. The --- --- chiropractor reviewer further noted that the patient had participated in a work hardening program following the postoperative rehabilitation. The ----- chiropractor reviewer explained that the work hardening program was medically necessary to treat this patient's condition. However, the ----- chiropractor reviewer also explained that the documentation provided did not support the medical necessity for the additional 1-hour of work hardening. Therefore, the ----- chiropractor consultant concluded that the 97545-WH-CA-Work Hard-Initial 4/6/04 through 4/16/04 were medically necessary to treat this patient's condition. The ----- chiropractor consultant further concluded that the 97546- WH-CA-Work Hard Each Add Hour from 4/6/04 through 4/16/04 were not medically necessary to treat this patient's condition.

Sincerely,