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

SOAH DOCKET NO. 453-05-3042.M5

MDR Tracking Number: M5-04-3944-01

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. The dispute was received on 7-20-04. .

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on 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.

The IRO has determined that the chiropractic manipulative treatments, therapeutic activities, electrical stimulation, and ultrasound therapies that were denied with "V" and rendered from 12/03/03 through 1/09/04 were medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

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 September 21, 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 code 97032** for dates of service 8/20/03 through 8/27/03 were denied by the carrier with "N", not appropriately documented. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service. Therefore, reimbursement is recommended in the amount of $75.32

- **CPT code 97530** for dates of service 10/22/03 through 10/27/03 were denied by the carrier with "F", fee guideline reduction. However, no payment was made. In accordance with Rule 133.307 (g)(3)(A-F), the requestor submitted relevant information to support delivery of service. Therefore, reimbursement is recommended in the amount of $98.88.

- **CPT Code 99080-73** was denied by the carrier with a V for unnecessary medical treatment based on a peer review, however, per Rule 129.5, the TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter and, therefore, recommends reimbursement. Requester submitted relevant information to support delivery of service. Reimbursement is recommended in the amount of $15.

- CPT code 97116 for dates of service 10/22/03, 10/24/03, and 10/27/03 was denied by the carrier with "F", fee guideline reduction. The documentation submitted by the requestor does not support delivery of service. Therefore, **reimbursement is not recommended**.

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 (c) 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 8/20/03 through 1/09/04 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 Decision and Order is hereby issued this 28th day of October 2004.

Regina L. Cleave
Medical Dispute Resolution Officer
Medical Review Division

RLC/rlc

September 10, 2004

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-04-3944-01
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 female who sustained a work related injury on ------. The patient reported that while at work she injured her right knee while attempting to restrain an inmate with a co-worker. The patient sought treatment for this injury on 7/30/03. On 10/29/03 the patient underwent diagnostic arthroscopy of the right knee with anerior compartment debridement and diagnosed with right knee medial plica with anterior fibrosis. Postoperatively the patient was treated with rehabilitation and physical therapy. The treating diagnoses for this patient included sprain of knee & leg, nos, and myalgia and myositis, nos. Treatment for this patient's condition has included chiropractic manipulations, myofascial trigger point release, vibratory massage, and ultrasound. The patient was released from care and returned to work light duty on 1/14/04.

Requested Services

Chiropractic manipulative treatment (1-2 regions 98940, 3-4 regions 98941), therapeutic activities, electrical stimulation (unattended), and ultrasound from 12/3/03 through 1/5/04.

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

Documents Submitted by Requestor:

1. Office notes 8/18/03 – 2/3/04
2. TWCC 69 1/26/04

Documents Submitted by Respondent:

1. MRI report 8/4/03
2. Office/Progress notes 7/31/02 – 10/27/03
3. Operative Note 4/16/04

Decision

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

Rationale/Basis for Decision

The ------ chiropractor reviewer noted that this case concerns a female who sustained a work related injury to her right knee on ------. The ------ chiropractor reviewer indicated that the patient underwent arthroscopy on 10/29/03 and was treated with 4 weeks of physical therapy consisting of active and passive treatments postoperatively. The ------ chiropractor reviewer noted that the patient recovered to the point of being released back to light duty work in mid January of 2004 however the patient never returned to work. The ------ chiropractor reviewer indicated that the patient responded slowly to the care and there was a question of whether her diabetes was affecting her healing process. The ------ chiropractor reviewer noted that the patient continued to receive periodic therapy until an evaluation on 4/7/04. The ------ chiropractor reviewer indicated that at that time the patient was found not to be at maximum medical improvement. The ------ chiropractor reviewer explained that it is important for the patient to receive care to facilitate healing. The ------ chiropractor reviewer also explained that she required a progression of her multidisciplinary approach and possible further surgical intervention. The ------ chiropractor reviewer indicated that treatment rendered was in the postoperative phase and medically necessary although the patient's outcome was not complete recovery. Therefore, ------ chiropractor consultant concluded that the chiropractic manipulative treatment (1-2 regions 98940, 3-4 regions 98941), therapeutic activities, electrical stimulation (unattended), and ultrasound from 12/3/03 through 1/5/04 were medically necessary to treat this patient's condition.

Sincerely,