

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 07-26-04.

The IRO reviewed therapeutic exercises, office visits, chiropractic manipulations, electrical stimulation, acupuncture and hot/cold pack therapy rendered from 07-23-03 through 05-05-04 that were denied based upon "U".

The IRO determined that the office visit (99213) on date of service 07-23-03, chiropractic manipulative therapy (98941) on 08-01-03, 08-20-03 and 08-27-03 as well as chiropractic manipulative therapy (98940) on date of service 08-13-03 **were** medically necessary. The IRO reviewer determined that therapeutic exercise (97110) on date of service 07-23-03 therapeutic exercises (97110), office visits (99213 and 99214) and chiropractic manipulative therapy 98940 and 98941), electrical muscle stimulation (97032), acupuncture (97780) and hot/cold pack therapy (97010) after the date of 10-29-03 **were not** medically necessary.

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 08-16-04, 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 on dates of service 07-25-03 and 07-28-03 denied with code "E" (entitlement). A TWCC-21 disputing entitlement has not been filed by the respondent. These services are reviewed per the 96 Medical Fee Guideline EVALUATION AND MANAGEMENT GR VI(B). Reimbursement is recommended in the amount of \$96.00 (\$48.00 X 2 DOS).

CPT code 97032 dates of service 07-25-03, 07-28-03, 10-07-03, 10-08-03 and 10-10-03 denied with code "E" (entitlement). A TWCC-21 disputing entitlement has not been filed by the respondent. Dates of service 07-25-03 and 07-28-03 are reviewed per the 96 Medical Fee Guideline MEDICINE GR I(a)(iii). Reimbursement is recommended in the amount of \$44.00 (\$22.00 X 2 DOS). Dates of service 10-07-03 through 10-10-03 are reviewed per the Medicare program reimbursement methodologies per Rule 134.202(c). Reimbursement is recommended in the amount of \$59.67 (\$15.91 X 125% = \$19.89 X 3 DOS).

CPT code 98941 dates of service 09-03-03 through 11-26-03 (12 DOS) denied with code “E” (entitlement). A TWCC-21 disputing entitlement has not been filed by the respondent. Per the Medicare program reimbursement methodologies per Rule 134.202(c) reimbursement is recommended in the amount of \$526.68 ( $\$35.11 \times 125\% = \$43.89 \times 12 \text{ DOS}$ ).

CPT code 97010 dates of service 07-25-03 through 10-10-03 (5 DOS) denied with code “E” (entitlement). A TWCC-21 disputing entitlement has not been filed by the respondent. Reimbursement in the amount of \$55.00 ( $\$11.00 \times 5 \text{ DOS}$ ) is recommended.

CPT code 99080-73 date of service 09-10-03 denied with code “E” (entitlement). A TWCC-21 disputing entitlement has not been filed by the respondent. Reimbursement in the amount of \$15.00 is recommended per Rule 133.106(f).

CPT code 97035 dates of service 10-07-03, 10-08-03 and 10-10-03 denied with code “E” (entitlement). A TWCC-21 disputing entitlement has not been filed by the respondent. Per the Medicare program reimbursement methodologies per Rule 134.202(c) reimbursement in the amount of \$44.79 ( $\$11.94 \times 125\% = \$14.93 \times 3 \text{ DOS}$ ) is recommended.

CPT code 97110 dates of service 07-25-03 and 07-28-03 denied with code “E” (entitlement). A TWCC-21 disputing entitlement has not been filed by the respondent. 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 97010 dates of service 12-01-03, 12-03-03, 12-05-03 and 12-08-03 denied with denial code “G” (global). The carrier was not specific in identifying which code CPT code 97010 was global to. Reimbursement in the amount of \$44.00 ( $\$11.00 \times 4 \text{ DOS}$ ) 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 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 07-23-03 through 12-08-03 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 29<sup>th</sup> day of October 2004.

Medical Dispute Resolution Officer  
Medical Review Division

**IRO Decision copy was submitted to both Requestor and Respondent.  
The Decision was not appealed.**