

MDR Tracking Number: M5-04-4143-01

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. This dispute was received on 8-5-04.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that electrical stimulation, CMT spinal 3-4 regions, massage therapy, ultrasound therapy, diathermy, mechanical traction therapy, office visits and CMT spinal 1-2 regions from 8-6-03 through 8-18-03, 10-2-03 through 10-10-03, 12-10-03, 12-19-03 and 1-28-04 through 3-5-04 were not medically necessary. Therefore, the requestor is not entitled to a reimbursement of the paid IRO fee.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues involved in the medical dispute 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 9-7-04, 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.

Per Rule 134.202(d), reimbursement shall be the least of the (1) MAR amount as established by this rule or, (2) the health care provider's usual and customary charge.

CPT code 99212 on 8-18-03, 9-15-03, 10-13-03, 12-10-03, 1-7-04, 2-4-04, 3-1-04, was either denied for an "F" – fee guideline MAR reduction, a "D" - duplicate or no EOB was provided by either the requestor or the respondent. The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). The carrier did not reimburse partial payment or give a rationale for not doing so. In many cases the respondent did recommend reimbursement according to the EOB. However, the requestor stated on 2-9-05 that no payments were received from the respondent. **Recommend reimbursement of \$290.25 (\$32.00 + (\$41.91 x 3 DOS) + (\$44.16 x 3 DOS).**

CPT code 97035 on 8-20-03, 8-22-03, 8-26-03, 8-27-03, 8-29-03, 9-3-03, 9-5-03, 9-8-03, 9-10-03, 9-12-03, 9-15-03, 9-17-03, 9-19-03, 9-22-03, 9-24-03, 9-26-03, 9-29-03, 10-13-03, 10-15-03, 10-17-03, 10-22-03, 10-24-03, 10-28-03, 10-29-03, 10-31-03, 12-03-03, 12-15-03, 12-17-03, 12-29-03 and 1-07-04, was either denied for an "F" – fee guideline MAR reduction or no EOB was provided by either the requestor or the respondent. The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). The carrier did not reimburse partial

payment or give a rationale for not doing so. In many cases the respondent did recommend reimbursement according to the EOB. However, the requestor stated on 2-9-05 that no payments were received from the respondent. **Recommend reimbursement of \$426.30 (\$14.21 x 30 DOS)** Regarding CPT code 97110 on 9-17-03, 9-19-03, 11-03-03, 11-05-03, 11-07-03, 11-14-03: Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section 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 has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the SOAP notes do not clearly delineate exclusive one-on-one treatment nor did the requestor identify the severity of the injury to warrant exclusive one-to-one therapy. **Reimbursement not recommended.**

CPT code 97010 on 8-20-03, 8-22-03, 8-26-03, 8-27-03, 8-29-03, 9-3-03, 9-5-03, 9-8-03, 9-10-03, 9-22-03, 9-29-03, 10-03-03, 11-03-03, 11-05-03, 11-07-03, 11-14-03, 11-17-03, 11-19-03, 11-21-03, 11-24-03, 12-03-03, 12-10-03, 12-29-03 and 1-7-04, was either denied for an "F" – fee guideline MAR reduction or no EOB was provided by either the requestor or the respondent. Procedure code 97010 will be bundled into the payment for all other services including, but not limited to, office visits and physical therapy." The Trailblazer Local Coverage Determination (LCD) states that code 97010 "is a bundled code and considered an Integral part of a therapeutic procedure(s). Regardless of whether it is billed alone or in conjunction with another therapy code, additional payment will not be made. Payment is included in the allowance for another therapy service/procedure performed. **No reimbursement recommended.**

CPT code 99213 on 8-20-03, 8-25-03, 8-27-03, 8-29-03, 9-3-03, 9-5-03 and 9-8-03 was either denied for an "F" – fee guideline MAR reduction or no EOB was provided by either the requestor or the respondent. The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). The carrier did not reimburse partial payment or give a rationale for not doing so. In many cases the respondent did recommend reimbursement according to the EOB. However, the requestor stated on 2-9-05 that no payments were received from the respondent. **Recommend reimbursement of \$334.40 (\$48.00 x 5 DOS + \$47.20 x 2 DOS)**

CPT code 97124 on 8-20-03, 8-27-03, 8-29-03, 9-3-03, 9-5-03, 9-17-03, 9-19-03, 9-29-03, 11-19-03, 11-21-03, 11-24-03, 1-9-04, 1-21-04, 1-23-04, 1-26-04, 3-17-04, 3-19-04 and 3-22-04 was either denied for an "F" – fee guideline MAR reduction or no EOB was provided by either the requestor or the respondent The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). The carrier did not reimburse partial payment or give a rationale for not doing so. In many cases the respondent did recommend reimbursement according to the EOB. However, the requestor stated on 2-9-05 that no payments were received from the respondent. **Recommend reimbursement of \$466.66 (\$25.70 x 11 DOS + \$26.28 x 7 DOS).**

CPT code 97032 on 8-20-03, 9-17-03, 9-19-03, 9-22-03, 9-24-03, 9-26-03, 10-13-03, 10-15-03, 10-17-03, 10-20-03, 10-22-03, 10-24-03, 10-28-03, 10-29-03 and 10-31-03 was either denied for an “F” – fee guideline MAR reduction or no EOB was provided by either the requestor or the respondent. The requestor submitted convincing evidence of carrier receipt of provider’s request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB’s Per Rule 133.307(e)(3)(B). The carrier did not reimburse partial payment or give a rationale for not doing so. In many cases the respondent did recommend reimbursement according to the EOB. However, the requestor stated on 2-9-05 that no payments were received from the respondent. **Recommend reimbursement of \$282.45 (\$18.83 x 15 DOS).**

CPT code 97124 on 9-10-03, 9-12-03, 9-15-03, 10-20-03, 10-22-03, 10-24-03, 10-29-03, 11-03-03, 11-05-03, 11-14-03, 11-17-03, 12-15-03, 12-17-03 and 12-19-03, 1-7-04 was denied with G – Unbundling. Per rule 133.304 (c) Carrier didn’t specify which service this was global to. **Recommend reimbursement of \$386.08 (\$25.70 x 14 DOS + \$26.28).**

CPT code 97035 on 12-19-03 was denied with G – Unbundling. Per rule 133.304 (c) Carrier didn’t specify which service this was global to. **Recommend reimbursement of \$14.21.**

CPT code 99212 on 11-17-03 was denied with G – Unbundling. Per rule 133.304 (c) Carrier didn’t specify which service this was global to. **Recommend reimbursement of \$41.91.**

CPT code 97012 on 12-19-03 was denied with G – Unbundling. Per rule 133.304 (c) Carrier didn’t specify which service this was global to. **Recommend reimbursement of \$17.21.**

CPT code 97012 on 8-22-03, 8-26-03, 9-12-03, 10-31-03, 12-10-03, 12-15-03, 12-17-03, 1-19-04, 1-21-04, 1-23-04, 1-26-04 and 3-12-04 was either denied for an “F” – fee guideline MAR reduction or no EOB was provided by either the requestor or the respondent. The requestor submitted convincing evidence of carrier receipt of provider’s request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB’s Per Rule 133.307(e)(3)(B). The carrier did not reimburse partial payment or give a rationale for not doing so. In many cases the respondent did recommend reimbursement according to the EOB. However, the requestor stated on 2-9-05 that no payments were received from the respondent. **Recommend reimbursement of \$210.02 (\$17.21x 7 DOS + \$17.91 x 5 DOS).**

CPT code G0283 on 8-22-03, 8-26-03, 8-27-03, 8-29-03, 9-3-03, 9-5-03, 9-8-03, 9-10-03, 9-12-03, 9-15-03, 11-03-03, 11-05-03, 11-07-03, 11-14-03, 11-17-03, 11-19-03, 11-21-03, 11-24-03, 12-03-03, 12-10-03, 12-15-03, 12-17-03, 12-29-03, 1-7-04, 1-9-04, 1-19-04, 1-21-04, 1-23-04, 1-26-04, 3-12-04, 3-15-04, 3-17-04, 3-19-04 and 3-22-04 was either denied for an “F” – fee guideline MAR reduction or no EOB was provided by either the requestor or the respondent. The requestor submitted convincing evidence of carrier receipt of provider’s request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB’s Per Rule 133.307(e)(3)(B). The carrier did not reimburse partial payment or give a rationale for not doing so. In many cases the respondent did recommend reimbursement according to the EOB. However, the requestor stated on 2-9-05 that no payments were received from respondent. **Recommend reimbursement of \$517.39 (\$14.91 x 23 DOS + \$15.86 x 11 DOS).**

CPT code 98940 on 9-10-03, 9-12-03, 9-22-03, 12-17-03, 3-12-04, 3-15-04, 3-19-04, was either denied for an “F” – fee guideline MAR reduction or no EOB was provided by either the requestor or the respondent. The requestor submitted convincing evidence of carrier receipt of provider’s request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB’s Per Rule 133.307(e)(3)(B). The carrier did not reimburse partial payment or give a rationale for not doing so. In many cases the respondent did recommend reimbursement according to the EOB. However, the requestor stated on 2-9-05 that no payments were received from the respondent.

Recommend reimbursement of \$214.61 (\$30.14 x 4 DOS + \$31.35 x 3 DOS).

CPT code 98941 on 9-15-03, 9-17-03, 9-19-03, 9-24-03, 9-26-03, 9-29-03, 10-13-03, 10-15-03, 10-17-03, 10-20-03, 10-22-03, 10-24-03, 10-28-03, 10-29-03, 10-31-03, 11-03-03, 11-05-03, 11-07-03, 11-14-03, 11-17-03, 11-19-03, 11-21-03, 11-24-03, 12-15-03, 1-7-04, 1-9-04, 1-19-04, 1-21-04, 1-23-04, 1-26-04, 3-17-04 and 3-22-04 was either denied for an “F” – fee guideline MAR reduction or no EOB was provided by either the requestor or the respondent. The requestor submitted convincing evidence of carrier receipt of provider’s request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB’s Per Rule 133.307(e)(3)(B). The carrier did not reimburse partial payment or give a rationale for not doing so. In many cases the respondent did recommend reimbursement according to the EOB. However, the requestor stated on 2-9-05 that no payments were received from the respondent. **Recommend reimbursement of \$1,354.48 (\$41.89 x 24 DOS + \$43.64 x 8 DOS).**

CPT code 97024 on 1-23-04, 1-26-04, 1-19-04, 3-12-04, 3-15-04, 3-17-04, 3-19-04 and 3-22-04 was either denied for an “F” – fee guideline MAR reduction or no EOB was provided by either the requestor or the respondent. The requestor submitted convincing evidence of carrier receipt of provider’s request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB’s Per Rule 133.307(e)(3)(B). The carrier did not reimburse partial payment or give a rationale for not doing so. In many cases the respondent did recommend reimbursement according to the EOB. However, the requestor stated on 2-9-05 that no payments were received from the respondent. **Recommend reimbursement of \$55.92 (\$6.99 x 8 DOS).**

CPT code 99080-73 on 10-06-03 and 10-29-03 was denied with a V for unnecessary medical treatment, however, the TWCC-73 is a required report and is not subject to an IRO review per Rule 129.5. The Medical Review Division has jurisdiction in this matter and, therefore, recommends reimbursement. Requestor submitted relevant information to support delivery of service.

Recommend reimbursement of \$30.00.

This Hearing and Decision is hereby issued this 23rd day of February 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

Pursuant to 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 (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 8-6-03 through 3-22-04 as outlined above in this dispute.

This Order is hereby issued this 23rd day of February 2005.

Margaret Ojeda, Supervisor
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO Decision

October 8, 2004

Texas Workers Compensation Commission
MS48
7551 Metro Center Drive, Suite 100
Austin, Texas 78744-1609

NOTICE OF INDEPENDENT REVIEW DECISION
Amended Determination 2/4/05

RE: MDR Tracking #: M5-04-4143-01
TWCC #:
Injured Employee:
Requestor: Allied Multicare Centers
Respondent: American Manufacturers Mutual Insurance
MAXIMUS Case #: TW04-0423

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS 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 MAXIMUS for independent review in accordance with this Rule.

MAXIMUS 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 MAXIMUS 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 MAXIMUS 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 MAXIMUS for independent review. In addition, the MAXIMUS 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 injure his back when the wall he was supporting fell. The patient was evaluation on 9/18/03 where he underwent x-rays of the lumbar spine. The patient was diagnosed with lumbar sprain and began a course of physical therapy. On 10/14/02 the patient underwent an MRI of the lumbar spine that was reported to have revealed spondylosis and a small left paracentral disc protrusion narrowing the left foramen at L5-S1, probably associated with a small extruded disc fragment on the left at that same level, and mild generalized spondylosis and facet arthrosis. The patient was evaluated on 10/23/02 and diagnoses with a recurrent right inguinal hernia and lumbar disc injury. The patient underwent a left partial hemilaminectomy, foraminotomy, medical facetectomy, and discectomy with a postoperative diagnosis of left L5-S1 disc herniation, and a right inguinal hernia repair. Postoperatively the patient began passive and active physical therapy and treatment with a TENS unit. The patient continued therapy treatment consisting of chiropractic manipulations, active therapy, and medications. The patient also underwent a series of epidural steroid injections from 10/27/03 – 12/1/03. The current diagnoses for this patient include other postsurgical status other, thoracic/lumbosacral neuritis/radiculitis unspec, lumbago, displacement lumbar intervert disc without myelopathy, thoracic/lumbosacral neuritis/radiculitis, and inguinal hernia with obstruction without mention of gangrene.

Requested Services

Electric stimulation, CMT spinal 3-4 regions, massage therapy, ultrasound therapy, diathermy, mechanical traction therapy, office visit, CMT spinal 1-2 regions from 8/6/03 – 8/18/03, 10/2/03 – 10/10/03, 12/10/03, 12/19/03, 1/28/04 – 3/5/04.

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

Documents Submitted by Requestor:

1. Initial Report 10/28/02
2. Update Letters 11/26/02 – 4/14/04
3. Neurosurgical office Note 8/26/04
4. EMG/NCV 5/14/03, 12/16/03
5. MRI report 9/15/03
6. Discography report 3/10/04
7. Treatment Updates 1/20/03 – 6/23/03
8. MMI/Impairment ratings 5/21/03 – 2/4/04
9. Medical Evaluations 5/8/03, 11/19/03, 4/14/04
10. Daily Progress Notes 8/6/03 – 3/22/04

Documents Submitted by Respondent:

1. Medical Evaluation 5/8/03
2. KNS General Peer Review 8/8/03

Decision

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

Rationale/Basis for Decision

The MAXIMUS chiropractor reviewer noted that this case concerns a 46 year-old male who sustained a work related injury on _____. The MAXIMUS chiropractor reviewer indicated that the patient underwent surgery 11 months prior to the treatment in question. The MAXIMUS chiropractor reviewer explained that 6-8 weeks of postoperative therapy is appropriate as long as the patient demonstrates a steady improvement with treatment rendered. The MAXIMUS chiropractor reviewer noted that the patient showed no subjective or objective improvement with the treatment rendered. The MAXIMUS chiropractor reviewer indicated that the patient was found to have scar tissue surrounding his nerve root. The MAXIMUS chiropractor reviewer explained that a manipulative based therapy program in not going to improve this condition. The MAXIMUS chiropractor reviewer noted that from 8/03 through 3/04 the daily soap notes indicate this patient's pain level remained the same. The MAXIMUS chiropractor reviewer indicated that the functional ability of the patient never improved with care. The MAXIMUS chiropractor reviewer explained that care is no long considered medically necessary or appropriate without documented proof of objective or subjective improvement. Therefore, the MAXIMUS chiropractor consultant concluded that the electric stimulation, CMT spinal 3-4 regions, massage therapy, ultrasound therapy, diathermy, mechanical traction therapy, office visit, CMT spinal 1-2 regions from 8/6/03 – 8/18/03, 10/2/03 – 10/10/03, 12/10/03, 12/19/03, 1/28/04 – 3/5/04 were not medically necessary to treat this patient's condition.

Sincerely,
MAXIMUS

Elizabeth McDonald
State Appeals Department