

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-05-2759.M5**

MDR Tracking Number: M5-04-4156-01

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 8-6-04.

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 office visits, massage therapy and therapeutic procedures from 3-25-04 through 4-20-04 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 fees were not the only fees 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 9-2-04, 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 99214 for date of service 3-23-04 was denied by the carrier. Review of the requester's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the reconsideration HCFAs and certified mail receipt reflected proof of billing in accordance with Rule 133.308 (f)(3). The disputed service will be reviewed according to the fee guidelines. **Reimbursement is recommended in the amount of \$92.30.**
- CPT code 97124 for dates 3-24-04, 3-30-04 and 3-31-04 of service were denied by the carrier. Review of the requester's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the reconsideration HCFAs and certified mail receipt reflected proof of billing in accordance with Rule 133.308 (f)(3). The disputed service will be reviewed according to the fee guidelines. **Reimbursement is recommended in the amount of \$154.20.**

- CPT code 97113 for dates of service 3-24-04, 3-30-04 were denied by the carrier. Review of the requester's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the reconsideration HCFAs and certified mail receipt reflected proof of billing in accordance with Rule

133.308 (f)(3). The disputed service will be reviewed according to the fee guidelines. **Reimbursement is recommended in the amount of \$415.56.**

- CPT code 99213 for dates of service 3-24-04, 3-30-04 and 3-31-04, were denied by the carrier. Review of the requester's and respondent's documentation revealed that neither party submitted copies of EOB's, however, review of the reconsideration HCFAs and certified mail receipt reflected proof of billing in accordance with Rule 133.308 (f)(3). The disputed service will be reviewed according to the fee guidelines. **Reimbursement is recommended in the amount of \$177.00.**
- CPT code 97110 for date of service 3-31-04 was denied by the carrier. 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.**

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.

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.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

October 6, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-4156-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Respondent:

- case review 01/03/02

Information provided by Requestor:

- letter of medical necessity 09/10/04
- office notes 10/31/96 – 04/20/04
- radiology reports 10/31/96 – 03/26/03
- daily progress notes 03/24/04 – 04/12/04
- operative report 12/10/97

Clinical History:

The patient was originally injured on the job on _____. He felt a pop in his back and had immediate pain. He had an evaluation, diagnostic testing and an aggressive treatment program, which ended in surgical intervention and postoperative rehabilitation as well as a return to work program. There was a period of time between June 5, 2001 and June 5, 2003 in which the patient received no treatment. In addition, there are reports of exacerbation on 06/05/03 and 03/23/04. The records indicate this patient has had extensive ongoing treatment. The records indicate that this patient was seen on 03/03/03, and it was noted the patient had not been seen at facilities since 06/25/01. Over the years, there were exacerbations at which time the treating doctor would render care. On 03/23/04 such exacerbation was noted, and it was documented that the last date of therapy this patient had received was 06/25/01. At that time, the reported exacerbation of low back pain was due to recent rainy weather.

Disputed Services:

Office visits, massage therapy and therapeutic procedures during the period of 03/25/04 through 04/12/04.

Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the treatment and services in dispute as stated above were not medically necessary in this case.

Rationale:

There is no clinical justification and/or national treatment guidelines that allow for this type of care that this patient received several years after being placed at maximum medical improvement for his on the job injury. The TWCC-73 dated 03/23/04 indicated the patient could return to work without restriction. Given this information, there is absolutely no clinical justification or indication for this patient to receive office visits, massage therapy, and aquatic therapy progressing to therapeutic exercises or procedures during the course of the patient's treatment. He received an inordinate amount of supervised therapy with no clinical justification or appropriate documentation that indicates that any services, i.e. office visits, massage therapy, or therapeutic procedures during the period of 03/25/04 through 04/12/04 were directly related to this patient's original on the job injury on _____.

Sincerely,