

MDR Tracking Number: M5-04-4210-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 August 13, 2004.

According to correspondence received 11-09-04, from the requestor, Integra Specialty Group, P.A., dates of service 06-07-04 through 08-05-04 have been withdrawn and therefore, will not be considered in this review.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the issues of medical necessity. The therapeutic exercises, office visits, manual therapy, mechanical traction, review of tests and manual testing, electrical stimulation, ultrasound, and hot/cold pack therapy that were denied with V from 01-09-04 through 04-15-04 were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On September 24, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
08-20-03	97124 97140 99213	\$28.44 \$34.05 \$66.19	\$0.00	L	\$28.44 \$34.05 \$66.19	Medicare Fee Schedule	According to TWCC database Dr. Robert E. Murphy was the treating doctor at the time services were rendered. Therefore, services rendered will be reviewed in accordance with the Medicare Fee Schedule. Recommend reimbursement of \$128.68.
08-26-03	97124 97140 99213	\$28.44 \$34.05 \$66.19	\$0.00	L	\$28.44 \$34.05 \$66.19	Medicare Fee Schedule	According to TWCC database Dr. Robert E. Murphy was the treating doctor at the time services were rendered. Therefore, services rendered will be reviewed in accordance with the Medicare Fee Schedule. Recommend reimbursement of \$128.68.
08-28-03	99080-73	\$15.00	\$0.00	L	\$15.00	Rule 133.106 (f)(1)	According to TWCC database Dr. Robert E. Murphy was the treating doctor at the time services were rendered. Therefore, 99080-73 will be

							reviewed in accordance with the Rule 133.106 (f)(1). Recommend reimbursement of \$15.00.
09-18-03	97110  97124 97140 99213	\$107.70  \$28.44 \$34.05 \$66.19	\$0.00	L	\$35.90 x 3  \$28.44 \$34.05 \$66.19	Medicare Fee Schedule	See rationale below for CPT code 97110.  According to TWCC database Dr. Robert E. Murphy was the treating doctor at the time services were rendered. Therefore, services rendered will be reviewed in accordance with the Medicare Fee Schedule. Recommend reimbursement of \$128.68.
09-23-03	97110  97124 97140 99213	\$107.70  \$28.44 \$34.05 \$66.19	\$0.00	L	\$35.90 x 3  \$28.44 \$34.05 \$66.19	Medicare Fee Schedule	See rationale below for CPT code 97110.  According to TWCC database Dr. Robert E. Murphy was the treating doctor at the time services were rendered. Therefore, services rendered will be reviewed in accordance with the Medicare Fee Schedule. Recommend reimbursement of \$128.68.
09-28-03	99080-73	\$15.00	\$0.00	L	\$15.00	Medicare Fee Schedule	According to TWCC database Dr. Robert E. Murphy was the treating doctor at the time services were rendered. Therefore, 99080-73 will be reviewed in accordance with the Rule 133.106 (f)(1). Recommend reimbursement of \$15.00.
10-01-03	97110  97124 97140 99213	\$107.70  \$28.44 \$34.05 \$66.19	\$0.00	L	\$35.90 x 3  \$28.44 \$34.05 \$66.19	Medicare Fee Schedule	See rationale below for CPT code 97110.  According to TWCC database Dr. Robert E. Murphy was the treating doctor at the time services were rendered. Therefore, services rendered will be reviewed in accordance with the Medicare Fee Schedule. Recommend reimbursement of \$128.68.
02-28-04	99080-73	\$15.00	\$0.00	V	\$15.00	Rule 133.106 (f)(1)	The TWCC-73 is a require report and is not subject to an IRO review. Therefore, will be reviewed in accordance with rule 133.106(f)(1). Recommend reimbursement of \$15.00.
03-28-04	99080-73	\$15.00	\$0.00	V	\$15.00	Rule 133.106 (f)(1)	The TWCC-73 is a require report and is not subject to an IRO review. Therefore, will be reviewed in accordance with rule 133.106(f)(1). Recommend reimbursement of \$15.00.
TOTAL		\$1026.50					The requestor is entitled to reimbursement of \$703.40.

**Rationale for CPT code 97110-** 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. Additional reimbursement not 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 (b); 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 for dates of service 08-20-03 through 03-28-04 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 Order is hereby issued this 20<sup>th</sup> day of January 2005.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

PR/pr

Enclosure: IRO Decision

### **IRO Medical Dispute Resolution M5 Retrospective Medical Necessity IRO Decision Notification Letter**

Date: 12/20/04  
Injured Employee:  
MDR #: M5 04 4210 01  
TWCC #:  
MCMC Certification #: 5294

Requested Services:

Please review the item in dispute regarding therapeutic exercises-97110, Office

visits-99213, Manual therapy-97140, Mechanical traction therapy-97012, Physical review of motion tests-96004, Limb muscle testing, manual-95831, Electrical stimulation 97032, Ultrasound-97035, Hot/cold pack-97010 denied with "V" codes. Do not review codes 99080-73. Review services marked with "V" only. (dates of service in dispute: 01/09/2004 - 04/15/2004).

MCMC llc (MCMC) is an Independent Review Organization (IRO) that was selected by The Texas Workers' Compensation Commission to render a recommendation regarding the medical necessity of the above Requested Service.

Please be advised that a MCMC Physician Advisor has determined that your request for M5 Retrospective Medical Dispute Resolution on 11/04/2004. concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity of therapeutic exercises, office visits, manual therapy, mechanical traction, review of tests and manual muscle testing, electrical stimulation, ultrasound, and hot/cold pack is not established for dates of service 01/09/2004 through 04/15/2004.

The medical necessity of the above captioned items is not established from a review of the submitted and reviewed documentation. Specifically, the submitted documentation is devoid of key elements that could establish the medical necessity of the above litany of procedures. The documentation contains no information regarding the initial examination, to include the history, presenting complaints, mechanism of injury, and initial examination findings. Also, there is no information regarding the initial course of care from 04/09/2002 through 08/29/2002. It is evident that the injured individual underwent knee surgery on 08/30/2002. However the documentation does not contain information regarding treatment before the surgery or after until 08/20/2003, the first date of treatment under the administration of the current attending chiropractic provider, (AP). The injured individual underwent treatment under the administration of the AP from, on or before 08/20/2003 through 10/01/2003, to include some of the same elements listed above. However, there are no indications within the submitted documentation as to the progress achieved and observed. It appears that the injured individual made functional progress from 01/09/2004 through 04/15/2004, however there are no associated daily notes submitted to determine the medical necessity of that particular course of care. Moreover, the frequency of care from 01/09/2004 through 04/15/2004 is sporadic and infrequent and not consistent with the standards of practice for the administration of physical medicine. It is not evident, from the paucity of documentation provided, as to the reason for the sporadic and infrequent care, 12 visits from 01/09/2004 through 04/15/2004. Lastly, it appears that the claimant underwent a second surgery sometime between 04/15/2004 and 06/07/2004. If surgery was expected, there would be no apparent established medical necessity for the 01/09/2004 through 04/15/2004 course of care.

Consistent with the arguments raised in the above discussion and given the paucity of information available for review as outlined above, the medical necessity for the items listed above from 01/09/2004 through 04/15/2004 is not established.

Records indicate that the above claimant was injured during the normal course of his employment on \_\_\_\_\_. It is unclear from a review of the documentation what treatment transpired from 04/09/2002 through 07/28/2003 when the injured individual first consulted with the current chiropractic provider. It is also not known what diagnostic tests were performed as well. However, a knee surgery was performed on 08/30/2002. An FCE dated 08/04/2003 demonstrated that the injured individual was performing well below the required functional level. 12 visits of chiropractic care were attended from 01/09/2004 through 04/15/2004 and serial testing apparently showed functional gains. No daily notes were provided for review.

This recommendation is based on:

- \*Texas Workers Compensation Commission (TWCC) Revised Notification of Independent Review Organization (IRO) Assignment: 11/04/2004
- \*IRO Medical Dispute Resolution M5 Retrospective IRO Acknowledgement and Invoice Notification Letter: 11/17/2004
- \*Physician Summary statement completed by Spencer Sloane, D.C.: 11/09/2004
- \*ERGOS Evaluation Summary Report completed by Robert Murphy, D.C.: 08/04/2003
- \*Behavioral Assessment of Pain, Medical Stability Quick Screen clinical report: 08/04/2003
- \*Prescription for work hardening program completed by C. Michaels, D.O.: 09/02/2003
- \*Prescription for return to work completed by C. Michaels, D.O.: 11/11/2003
- \*Physical Progress Report from 01/07/2004 to 07/26/2004
- \*Disputed Date of Service form: 08/20/2003 to 04/15/2004

The reviewing provider is a Licensed Chiropractor and certifies that no known conflict of interest exists between the reviewing Chiropractor and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO. The reviewing physician is on TWCC's Approved Doctor List.

**This decision by MCMC is deemed to be a Commission decision and order (133.308(p) (5)).**

**In accordance with commission rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of TWCC on this**

**20<sup>th</sup> day of December 2004.**

**Signature of IRO Employee:** \_\_\_\_\_

**Printed Name of IRO Employee:** \_\_\_\_\_