

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 (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 August 18, 2004.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the medical necessity issues. 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 \$650.00** 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.

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. The therapeutic exercises, neuromuscular re-education, ultrasound, manual therapy technique, therapeutic activities were rendered from 3/24/04 through 5/18/04 found to be medically necessary. The range of motion testing rendered on 5/18/04 was not found to be medically necessary. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On September 16, 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	MAR	Paid	EOB Denial Code	Rationale
4/28/04	97112	\$34.30	\$34.30	\$0.00	EOB reflects PD	Communication with Caitlan on 9/16/04 revealed CPT codes 97112 has been withdrawn from MDR and does not require further action.
4/30/04	97112	\$34.30	\$34.30			
TOTAL		\$61.74	\$61.74			

**ORDER**

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 the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) 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 3/24/04 through 5/18/04 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 8<sup>th</sup> day of October 2004.

Margaret Q. Ojeda  
Medical Dispute Resolution Officer  
Medical Review Division

MQO/mqo  
Enclosure: IRO decision

~~September 30, 2004~~

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REGINA CLEAVE  
TEXAS WORKERS COMP. COMMISSION  
AUSTIN, TX 78744-1609

CLAIMANT:  
EMPLOYEE:  
POLICY: M504428901  
CLIENT TRACKING NUMBER: M5-04-4289-01

Medical Review Institute of America (MRloA) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO). The Texas Workers Compensation Commission has assigned the above mentioned case to MRloA for independent review in accordance with TWCC Rule 133 which provides for medical dispute resolution by an IRO.

MRloA has performed an independent review of the case in question to determine if the adverse determination was appropriate. In performing this review all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed. Itemization of this information will follow.

The independent review was performed by a peer of the treating provider for this patient. The reviewer in this case is on the TWCC approved doctor list (ADL). The reviewer has signed a statement indicating they have no known conflicts of interest existing between themselves and the treating doctors/providers for the patient in question or any of the doctors/providers who reviewed the case prior to the referral to MRloA for independent review.

**Records Received:**

Records received from TWCC:

- Notification of IRO Assignment, dated 9/16/04 - 1 page
- Letter to MRloA from TWCC, dated 9/16/04 - 1 page
- Medical Dispute Resolution Request/Response - 3 pages
- Print Screen, dated 9/3/04 - 4 pages

- Table of Disputed Services – 4 pages
- EOB's – 12 pages

Records received from John H Judd, Jr, MD:

- Medical records including: H&P, D/C summary, office notes, MRI report – 16 pages

Records received from Work & Rehab:

- Letter to Texas Mutual Insurance Company from Terri Damme, PT, dated 6/23/04 – 1 page
- Medical records including: Evaluation, Work Conditioning/Work Hardening Staffing Reports, Impingement Protocols, Impingement Activity Flow Sheets, Activity Flow Sheets, D/C summary, Daily Charge Tickets, and correspondence – 44 pages

Records from Daniel JM Vaughan, MD:

- Letter to Dr. Judd from Dr. Vaughn, dated 2/25/04 – 3 pages
- EMG report, dated 2/25/04 – 1 page

**Summary of Treatment/Case History:**

This patient had a reported work-related injury on \_\_\_\_\_. He states that he was attempting to lift a trailer off a stand, and the trailer fell. The initial MD report indicates the patient was complaining of posterior neck pain radiating down the right arm. He also noted numbness in the ulnar nerve distribution and had shoulder pain to the point that he “couldn’t lift.”

The early MD notes hypothesized partial rotator cuff tear, possible labral tear, impingement syndrome, and AC involvement (possible meniscal tear of the AC joint). An MRI showed tendonopathy and peritendinitis of the rotator cuff. X-rays showed spurring in the lower cervical spine.

He went on to require a complex shoulder surgery on 03/12/04 involving a Bankart repair of the torn anterior glenoid labrum, subacromial decompression, and AC joint resection (Mumford procedure).

He was evaluated and treated post-operatively in PT beginning 03/22/04. The patient presented with expected pain, inflammation, and limited strength, ROM, and function post-operatively.

During the treatments in the dates of question, the patient received manual therapy, ultrasound, neuromuscular re-education, therapeutic exercise, and therapeutic activities.

The patient continued post-operative PT through 05/18/04, the date last seen in PT. At that point he was functioning at a level consistent with the physical demands of his job. Also, he showed a clinically successful outcome with ROM as follows: 172 flexion, 170 abduction, and 80 external rotation.

**Questions for Review:**

- 1) Please advise medical necessity of therapeutic exercises (#97110), neuromuscular re-education (#97112), ultrasound (#97035), manual therapy techniques (#97140), therapeutic activities (#97530), and range of motion measurements (#95851). The dates in question include 03/24/04 – 05/18/04.

**Explanation of Findings:**

The PT documentation is consistent with the patient’s post-operative diagnoses. The notes show a step-wise improvement in ROM, strength, and function.

Patients undergoing complex shoulder surgery as identified in this case are appropriate candidates for skilled PT. Patients may require between 18 and 30 visits spanning a two- to three-month period. In the present case, the patient received a total of 26 PT visits. The documentation shows an appropriate timeframe and volume of treatment over the course of care. <sup>1, 2</sup>

For most of the codes used during the dates in question, the times in the treatment notes and flow charts are equivalent to the charges in the accompanying superbills. Patients who present post-operatively for status post Bankart lesion repair, Mumford procedure, and subacromial decompression are appropriately treated in PT for up to 75 minutes. Typically, one of the 15-minute applications (such as ultrasound, hot packs, or electrical stimulation) can be carried out by support staff, allowing the primary PT to perform one-on-one care for up to 60 minutes. In the charges submitted, most treatment dates included between four and five CPT codes (60 to 75 minutes). The time allocation of the combined CPT codes, in general, equates to the times identified in the PT flow charts.

The successful outcome experienced by this patient attests to the medical necessity of the treatment choices and the utilization of PT. The final discharge note of 05/18/04 indicates the patient was able to perform the physical demands of the job category of welder.

**Conclusion:**

Decision to Certify:

Ultrasound treatments (#97035) used early in the post-operative course were appropriate for pain control and to address lingering post-operative inflammation.

Patients who are post-operative for complex shoulder surgery usually require manual therapy treatments (#97140). This form of treatment is helpful for restoring joint motion and overall shoulder ROM. The treatment notes indicate the patient received up to 30 minutes of this form of treatment, which is a reasonable length of time to apply shoulder manual therapy techniques.

The treatment notes demonstrate an appropriate progression of exercise (#97110). The times indicated in the columns of the flow charts are consistent with up to 30 minutes charged for therapeutic exercise.

Therapeutic activities (#97530) were appropriately used and documented and involved one-on-one dynamic activities to improve functional performance. Again, up to 30 minutes per session would be deemed reasonable.

Decision to Not Certify:

Comparing the daily treatment notes and superbills indicates inappropriate use of code #97112. This code, describing therapeutic procedure, does not correlate with the wording of the PT treatment notes. To use this code, the PT note and/or flow chart must define the actual treatment performed, and it must specifically address neuromuscular function, including aspects of posture, kinesthesia, proprioception, and balance/coordination. There is no indication in the notes or flow charts that 15-minutes of time was allocated for this form of treatment. The use of this code is, therefore, inappropriate and not medically necessary.

The use of code #95851 (ROM measurements) is not warranted, seeing that the ROM measures on 05/18/04 were unilateral and not comparative in nature. It is not reasonable or customary to apply a

charge for code #95851 for the simple matter of writing down the patient's final ROM measurements. It is notable that the PT kept track of the patient's ROM over the course of care and appropriately chose not to bill using code #95851 on these numerous occasions.

**Applicable Clinical or Scientific Criteria or Guidelines Applied in Arriving at Decision:**

CPT codes <sup>3</sup>

#97140 – Manual therapy techniques: The diagnosis, symptoms, and documentation support the use of this code over the post-operative course of care. Up to 30 minutes per session would be deemed reasonable.

#97110 – Therapeutic exercise: The documentation shows appropriate progression of exercise and the use of this code. Patients experiencing an increase in shoulder ROM require an exercise format as used in this case to maximize functional ROM. Up to 30 minutes per session would be deemed reasonable.

#97112 – Therapeutic procedure, one or more areas, each 15 minutes: neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and proprioception. This code, as charged, does not equate to the PT treatment notes, and is, therefore, not appropriately applied in this case.

#97530 – The progression of dynamic, functional activity supports the use of this code. The PT notes are replete with proper application of this code, specifically as it related to work demands. Up to 30 minutes per session would be deemed reasonable.

#97035 – Ultrasound treatments would be expected, given the patient's post-operative diagnoses. This code is appropriately used for applications of ultrasound as occurred in this case. Treatment times usually involve 7 minute applications to a specific area. Even though the code allots 15 minutes, this includes set up time. Thus, the use of this code as documented is justified.

#95851 – This code, which applies to range of motion measures, was charged on 05/18/04. On this date, the PT simply jotted down the patient's final range of motion. The fact the PT did not apply this charge at any other time when similar measures were recorded attests to the inappropriate use of this code at the conclusion of care.

**References Used in Support of Decision:**

1: Pattern D: Impaired Joint Mobility, Motor Function, Muscle Performance, and Range of Motion Associated with Connective Tissue Dysfunction. In *Guide to Physical Therapist Practice*. 2<sup>nd</sup> Edition. American Physical Therapy Association. Alexandria, VA. 2001. Pp. 205 – 222.

2: Pattern I: Impaired Joint Mobility, Motor Function, Muscle Performance, and Range of Motion Associated with Bony or Soft Tissue Surgery. In *Guide to Physical Therapist Practice*. 2<sup>nd</sup> Edition. American Physical Therapy Association. Alexandria, VA. 2001. Pp. 277 –294.

3: *Current Procedural Terminology: 2001*. 2<sup>nd</sup> Edition. American Medical Association.

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This reviewer has a Masters in Physical Therapy. They are currently the Clinic Manager of an orthopedic physical therapy practice. The reviewer has been certified by the American Board of Physical Therapy Examiners as an Orthopedica specialist. The reviewer is also a certified manual physical therapist. The reviewer has been certified by the National Strength and Conditioning Association as a Sports and Conditioning Specialist. The reviewer is a member of the American Physical Therapy Association. The reviewer is the author of 64 patient education modules in a series entitled, A Patient's Guide to Rehabilitation. The reviewer has been in active practice since 1991.

MRloA is forwarding this decision by mail, and in the case of time sensitive matters by facsimile, a copy of this finding to the treating provider, payor and/or URA, patient and the TWCC.

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The written opinions provided by MRloA represent the opinions of the physician reviewers and clinical advisors who reviewed the case. These case review opinions are provided in good faith, based on the medical records and information submitted to MRloA for review, the published scientific medical literature, and other relevant information such as that available through federal agencies, institutes and professional associations. Medical Review Institute of America assumes no liability for the opinions of its contracted physicians and/or clinician advisors. The health plan, organization or other party authorizing this case review agrees to hold MRloA harmless for any and all claims which may arise as a result of this case review. The health plan, organization or other third party requesting or authorizing this review is responsible for policy interpretation and for the final determination made regarding coverage and/or eligibility for this case.

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