

MDR Tracking Number: M5-04-4367-01

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, 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 08-25-04.

The IRO reviewed office visits, electrical stimulation, ultrasound, paraffin bath, hot/cold pack therapy, therapeutic exercises and manual therapy technique rendered from 01-27-04 through 03-19-04 that were denied based upon "V".

The IRO determined that the therapeutic exercises **were** medically necessary. The IRO determined that the office visits, electrical stimulation, ultrasound, paraffin bath, hot/cold pack therapy and manual therapy technique **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 09-16-04, 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.

Review of CPT codes 99213-21, 97032, 97035, 97018, 97010, 99080-73, 97140, 97124, 99358-52, 99214-21, 97110, 97530 and 97112 billed for dates of service 01-15-04 through 01-23-04, 01-29-04, 01-30-04, 02-04-04, 02-05-04, 02-12-04, 02-19-04 through 03-18-04 and 04-13-04 and 04-15-04 revealed that neither the requestor nor the respondent submitted EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement 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 Medicare

program reimbursement methodologies effective 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 01-30-04, 02-04-04, 02-05-04, 02-10-04, 02-12-04, 02-17-04 and 03-19-04 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 Findings and Decision and Order are hereby issued this 29<sup>th</sup> day of December 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

DLH/dlh

Enclosure: IRO Decision

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**NOTICE OF INDEPENDENT REVIEW DECISION**

December 6, 2004

**Re: IRO Case # M5-04-4367**

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule 133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the

adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Physical Medicine and Rehabilitation, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

#### Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. Peer reviews 1/29/04, 1/13/04
4. New patient evaluation 1/16/04
5. Follow up visit note 2/4/04
6. Follow up note 2/13/04
7. Report electrodiagnostic testing lower extremities 1/13/04
8. Reports x-rays right knee, hip, ankle \_\_\_\_
9. Reports MRIs left hip, right knee, left knee 12/11/03
10. D.C. initial report 12/30/03
11. Physical therapy progress notes 12/30/04 – 3/18/04
12. Follow up note 2/5/04
13. operative report 3/29/04
14. Follow up note 4/8/04
15. Physical therapy progress notes 4/13/04 – 4/15/04
16. Follow up note 4/14/04

#### History

The patient is a 29-year-old female who slipped and fell on \_\_\_\_ and injured her right knee, left ankle and left hip. She was initially seen at a local hospital, where x-rays of the left hip and ankle and right knee were taken and reported as negative for fracture. She was initially treated with physical therapy, and she then began treatment with a D.C. on 12/30/03 and physical therapy was continued. An MRI of the right knee on 12/11/03 was significant for a large lateral meniscus tear. An MRI of the left ankle on 12/11/03 showed damage to the lateral collateral ligament and sinus tarsi syndrome. An MRI of the left hip on the same date revealed an artifact from previous surgery, moderate joint effusion, and greater trochanteric bursitis. The patient was referred for orthopedic evaluation 1/16/04. She was given a left greater trochanteric bursal injection and was referred for surgical consultation. The patient underwent surgery on 3/29/04.

#### Requested Service(s)

Office visits, elect stimulation, ultrasound, paraffin bath, hot/cold pack therapy, therapeutic exercises, manual therap techniques 1/27/04 – 3/19/04

Decision

I disagree with the carrier's decision to deny the requested therapeutic exercises, code 97110.

I agree with the carrier's decision to deny all other requested services.

Rationale

The patient injured her knee and ankle when she fell on \_\_\_\_\_. She first saw a chiropractor on 12/30/03 and began her physical therapy program. She was treated with passive modalities for a month. She was started on therapeutic exercises on January 2004. Eight weeks of therapeutic exercises following an injury such as this patient's injury is medically appropriate and necessary.

The continuation of passive modalities would not be medically indicated or necessary over two months post injury. At times, the continuation of passive modalities beyond this point may be indicated to facilitate therapeutic exercises. However, this would not be indicated for more than one 15-minute increment. Office visits would not be indicated for a patient who follows up for planned physical therapy treatment.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

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Daniel Y. Chin, for GP