

MDR Tracking Number: M5-05-0340-01

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 (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 February 17, 2004.

Correspondence submitted by \_\_\_\_, dated 3/23/04 revealed \_\_\_\_, the claim examiner, desires to no longer pursue the "R-relatedness" denial code. Therefore at \_\_\_\_ request the "R" denials are now reflected as "F-Not according to the Fee Guideline" and will be reviewed according to "F".

The 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 the physical medicine services were not found to be medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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 physical medicine services rendered 6/23/03 through 9/5/03 were 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 March 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	Rationale
7/23/03	97250	\$43.00	\$0.00	No EOB	The requestor submitted relevant information to support delivery of service. Reimbursement is recommended in the amount of \$43.00.
	97530	\$105.00	\$0.00	No EOB	The requestor has not submitted relevant information to supports delivery of service as billed. Reimbursement is not recommended.
8/1/03	97250	\$43.00	\$0.00	No EOB	According to the TWCC Rule 134.202 (b), "For coding, billing, reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies..." Therefore, the requestor is not entitled to reimbursement of the disputed charge.
8/4/03	99213	\$67.00	\$0.00	F	The requestor submitted relevant information to support delivery of service. The requestor is therefore entitled to reimbursement in the amount of \$52.95 multiplied by 125% equals \$66.19 x 7 for a total recommended amount of \$463.33
8/6/03	99213	\$67.00	\$0.00	F	
8/8/03	99213	\$67.00	\$0.00	F	
8/19/03	97530	\$74.00	\$0.00	F	
8/29/03	99213	\$67.00	\$0.00	F	
9/3/03	99213	\$67.00	\$0.00	F	
9/5/03	99213	\$67.00	\$0.00	F	
8/19/03	97110	\$72.00	\$0.00	F	See rationale below. No reimbursement is recommended.
TOTAL		\$739.00	\$0.00		Recommend reimbursement in the amount of \$463.33.

Recent review of disputes involving CPT Code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings 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 is therefore not recommended for CPT code 97110 rendered on 8/19/03.

**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 7/23/03 and 8/4/03 through 9/5/03 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 November 2004.

Margaret Q. Ojeda  
Medical Dispute Resolution Officer  
Medical Review Division

MQO/mqo

November 4, 2004

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

Re: Medical Dispute Resolution  
MDR #: M5-05-0340-01  
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 the Secretary and General Counsel of \_\_\_ 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 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 Requestor:

- Correspondence
- Physical therapy notes 06/09/03 – 09/05/03

Information provided by Spine Surgeon:

- Office notes 02/07/03 – 05/26/04
- Operative reports 04/15/03 – 12/09/03

### Clinical History:

Patient underwent physical medicine treatments and surgery after injuring his low back at work on \_\_\_\_.

### Disputed Services:

Physical medicine services during the period of 06/23/03 thru 09/05/03.

### Decision:

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the physical medicine services rendered from 06/23/03 thru 09/05/03 were not medically necessary in this case.

### Rationale:

Therapeutic exercises may be performed in a clinic one-on-one, in a clinic in a group, at a gym or at home with the least costly of these options being a home program. A home exercise program is also preferable because the patient can perform them on a daily basis. On the most basic level, the provider has failed to establish why the services were required to be performed one-on-one.

Continuation of an unchanging treatment plan, performance of activities that can be performed as a home exercise program and/or modalities that provide the same effects as those that can be self applied are not indicated. While the provider claimed the exercises were strengthening in nature, most of the billed exercises were of a stretching nature and the exact type of "hand-out" exercises that many providers prescribe for patients to perform at home.

There is also no evidence to support the need for monitored therapy. Services that do not require "hands-on" care or supervision of a health care provider are not considered medically necessary services, even if the services are performed by a health care provider. Moreover, current medical literature states, "...there is no strong evidence for the effectiveness of supervised training as compared to home exercises."<sup>1</sup> While the

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<sup>1</sup> Ostelo RW, de Vet HC, Waddell G, Kerchhoffs MR, Leffers P, van Tulder M, Rehabilitation following first-time lumbar disc surgery: a systematic review within the framework of the cochrane collaboration. Spine. 2003 Feb 1;28(3):209-18.

provider references increased strength and ranges of motion – without supplying the examinations for review – any gains obtained in this time period would have certainly been achieved through performance of a home program.

And finally, there is insufficient documentation to support the medical necessity for the treatment in question since the computer-generated daily progress notes were essentially identical for each date of service. The Center for Medicare and Medicaid Services (CMS) has stated, "Documentation should detail the specific elements of the chiropractic service for this particular patient on this day of service. It should be clear from the documentation why the service was necessary that day. Services supported by repetitive entries lacking encounter-specific information will be denied."