

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. The dispute was received on 9-29-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of the issues of medical necessity. 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 \$460.00** 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.

CPT codes 97110, 98940, 97116, 97530, 97035, 97112 and 99215 from 9-29-03 through 4-9-04 **were** found to be medically necessary. CPT codes 97140 and 99070 and HCPC's codes E0745 and E1399 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity issues were not the only issues 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 11-5-04 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 97140-59 on 9-29-03, 10-01-03, 10-03-03, 10-06-03 (2 units), 10-08-03, 10-10-03 (2 units) 10-13-03, 10-15-03 (2 units) 10-17-03 (2 units), 10-20-03 (2 units), 10-22-03 (2 units). 10-24-03, 10-27-03 (2 units), 10-29-03 (2 units), 10-31-03 (2 units), 11-3-03 (2 units), 11-04-03 (2 units), 11-07-03 (2 units), 11-10-03 (2 units), 11-12-03 (2 units), 11-14-03 (2 units), 11-17-03 (2 units), 11-19-03 (2 units), 11-21-03 (2 units), 11-24-03 (2 units), 11-25-03 (2 units) and 11-26-03 (2 units), was denied as "509" - "correct coding initiative bundle guidelines indicate this code is a comprehensive component of another code on the same day" or as a "243-002" - This procedure has been included in another procedure performed on the same day" or as "G"- "Unbundling" or as "509-001" - "This code is a mutually exclusive code, considered included in another code on the same day". Per rule 133.304 (c) and 134.202(a)(4) carrier didn't specify which service this was a "comprehensive component of" or "included with" or "mutually exclusive to" or "bundled to". **Recommend reimbursement of \$1600.35 (47 units x \$34.05).**

CPT code 97110 on 10-01-03, 10-06-03, 10-08-03, 10-10-03, 10-13-03, 10-15-03, 10-17-03, 10-20-03, 10-22-03, 10-24-03, 10-27-03 and 10-29-03 was denied as "509" - "correct coding initiative bundle guidelines indicate this code is a comprehensive component of another code on the same day" or as a "243-002" - This procedure has been included in another procedure performed on the same day" or as "G"- "Unbundling" or as "509-001" - "This code is a mutually

exclusive code, considered included in another code on the same day”. Insurance Carrier did not specify what service CPT code 97110 was a “comprehensive component of” or “included with” or “mutually exclusive to” or “bundled to”. However, 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.**

CPT code 97112 on 10-01-03, 10-06-03, 10-08-03, 10-10-03, 10-13-03, 10-15-03, 10-17-03, 10-20-03, 10-22-03, 10-24-03, 10-27-03, 10-29-03, 11-03-03, 11-04-03, 11-07-03, 11-10-03, 11-12-03, 11-14-03, 11-17-03, 11-19-03, 11-21-03, 11-24-03, 11-25-03, 11-26-03 and 1-28-04 was denied as “509” - “Correct coding initiative bundle guidelines indicate this code is a comprehensive component of another code on the same day” or as a “243-002” - This procedure has been included in another procedure performed on the same day” or as “G”- “Unbundling” or as “509-001” – “This code is a mutually exclusive code, considered included in another code on the same day”. Per rule 133.304 (c) and 134.202(a)(4) carrier didn’t specify which service this was a “comprehensive component of” or “included with” or “mutually exclusive to” or “bundled to”. **Recommend reimbursement of \$923.50 (25 units x \$36.94).**

HCPCs code E0745 on 10-06-03, 11-03-03 and 11-26-03 was denied as “509” - “Correct coding initiative bundle guidelines indicate this code is a comprehensive component of another code on the same day” or as a “243-002” - This procedure has been included in another procedure performed on the same day” or as “G”- “Unbundling” or as “509-001” – “This code is a mutually exclusive code, considered included in another code on the same day”. Per rule 133.304 (c) and 134.202(a)(4) carrier didn’t specify which service this was a “comprehensive component of” or “included with” or “mutually exclusive to” or “bundled to”. The DMEPOS fee schedule for 2003 lists \$89.51 as the recommended reimbursement. **Recommend reimbursement of \$89.51.**

CPT code 98941 on 11-3-03 and 11-26-03 was denied as “509” - “Correct coding initiative bundle guidelines indicate this code is a comprehensive component of another code on the same day” or as “243-002” - This procedure has been included in another procedure performed on the same day” or as “G”- “Unbundling” or as “509-001” – “This code is a mutually exclusive code, considered included in another code on the same day”. Per rule 133.304 (c) and 134.202(a)(4) carrier didn’t specify which service this was a “comprehensive component of” or “included with” or “mutually exclusive to” or “bundled to”. **Recommend reimbursement of \$91.48 (2 units x \$45.74)**

HCPCs code E1399 on 11-3-03 was denied as “509” - “Correct coding initiative bundle guidelines indicate this code is a comprehensive component of another code on the same day” or as a “243-002” - This procedure has been included in another procedure performed on the same day” or as “G”- “Unbundling” or as “509-001” – “This code is a mutually exclusive code, considered included in another code on the same day”. Per rule 133.304 (c) and 134.202(a)(4) carrier didn’t specify which service this was a “comprehensive component of” or “included

with” or “mutually exclusive to” or “bundled to”. Texas Labor Code 413.011 (d) and Rule 133.304 (i) (1-4) places certain requirements on the Carrier when reducing the services for which the Commission has not established a maximum allowable reimbursement. The Respondent is required to develop and consistently apply a methodology to determine fair and reasonable reimbursement and explain and document the method used for the calculation. **Recommend reimbursement.**

CPT code 97530 on 11-3-03 (6 units), 11-04-03 (6 units), 11-07-03 (6 units), 11-10-03 (6 units), 11-12-03 (6 units), 11-14-03 (6 units), 11-17-03 (6 units), 11-19-03 (6 units), 11-21-03 (6 units), 11-24-03 (6 units), 11-25-03 (6 units) and 11-26-03 (6 units), was denied as “509” - “Correct coding initiative bundle guidelines indicate this code is a comprehensive component of another code on the same day” or as a “243-002” - This procedure has been included in another procedure performed on the same day” or as “G”- “Unbundling” or as “509-001” – “This code is a mutually exclusive code, considered included in another code on the same day”. Per rule 133.304 (c) and 134.202(a)(4) carrier didn’t specify which service this was a “comprehensive component of” or “included with” or “mutually exclusive to” or “bundled to”. **Recommend reimbursement of \$2,626.56 (72 units x \$36.48).**

CPT code 99215 on 11-26-03 was denied as “509” - “Correct coding initiative bundle guidelines indicate this code is a comprehensive component of another code on the same day” or as a “243-002” - This procedure has been included in another procedure performed on the same day” or as “G”- “Unbundling” or as “509-001” – “This code is a mutually exclusive code, considered included in another code on the same day”. Per rule 133.304 (c) and 134.202(a)(4) carrier didn’t specify which service this was a “comprehensive component of” or “included with” or “mutually exclusive to” or “bundled to”. **Recommend reimbursement of \$150.83.**

CPT code 97116 on 11-03-03 and 11-26-03 was denied as “509” - “Correct coding initiative bundle guidelines indicate this code is a comprehensive component of another code on the same day” or as a “243-002” - This procedure has been included in another procedure performed on the same day” or as “G”- “Unbundling” or as “509-001” – “This code is a mutually exclusive code, considered included in another code on the same day”. Per rule 133.304 (c) and 134.202(a)(4) carrier didn’t specify which service this was a “comprehensive component of” or “included with” or “mutually exclusive to” or “bundled to”. **Recommend reimbursement of \$63.36 (2 units x \$31.68).**

CPT code 98940 on 1-28-04 was assigned no denial code and the EOB dated 6-23-04 shows that an allowance was recommended. The requestor states that no payment has been received. **Recommend reimbursement of \$33.61.**

This Findings and Decision is hereby issued this 15th day of March 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

Pursuant to 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees from 9-29-03 through 4-9-04 in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 134.202 (c) and 134.202(c)(6); plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

This Order is hereby issued this 15th day of March 2005.

Margaret Ojeda, Manager
Medical Necessity Team
Medical Dispute Resolution
Medical Review Division

MO/da

Enclosure: IRO decision

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

Date: 12/20/2004 (amended 03/03/2005)
Injured Employee:
MDR #: M5 05 0422 01
TWCC #:
MCMC Certification #: 5294

Requested Services:

Please review the item in dispute regarding #97110-Therapeutic procedure range of motion, #98940-Chiropractic manipulative treatment spinal 1-2 regions, #97116-Therapeutic procedure gait training, #99070-Supplies and materials supplied by physician, #97530-Therapeutic activities direct one on one patient contact with provider, #97035-Ultrasound, #97112-Neuromuscular re-education, #97140 -Manual therapy technique mobilization/manipulation, #E0745-Neuromuscular stimulator electric shock unit, #E1399-Durable medical equipment misc. #99215-Office visit.

Denied by carrier for medical necessity with "U" and "V" codes.

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 11/4/2004, concerning the medical necessity of the above referenced requested services, hereby finds the following:

The following items are certified as medically necessary for the disputed dates of service: 97110, 98940, 97116, 97530, 97035, 97112, and 99215. The other items in dispute including 97140, E0745, E1399 and 99070 are not supported in the documentation as to medical necessity.

This review involves a litany of services as well as a lengthy list of dates of services. For the purposes of this review, it is understood that the submitted dates of service are

09/29/2003 through 04/09/2004. It should be noted that there are numerous dates of service that are apparently not in question, as they do not appear on the table of disputed charges.

However, there are daily notes that reflect more dates of service than are reflected in the table of disputed charges. Therefore, the items listed above will be reviewed one by one and certified as to specific dates of service.

Some of the items in dispute are certified as medically necessary for the dates of service in dispute. There are some items in dispute, which are not certified as medically necessary for the dates of service in dispute. See rationale below for specific explanation.

This injured individual presented to the office of the Attending Provider (AP) with multi-level spinal injuries. Although the injured individual presented to the office of the AP on 09/04/2003, there is no associated daily documentation submitted for review until 09/29/2003. It is apparent, however, that through the course of care this injured individual made significant progress in regards to objective findings including ranges of motion and orthopedic testing. These objective gains are evidenced through regular follow-up examinations and comparative data. It is also apparent through the documentation that this injured individual had significant complicating factors as evidenced by positive MRI findings and positive electrodiagnostic findings. Given the apparent complicating factors, coupled with the documented objective progress, the following items are certified as medically necessary for the disputed dates of service: 97110, 98940, 97116, 97530, 97035, 97112, and 99215. These particular items would be considered consistent with standards of care and practice within the chiropractic profession. Furthermore, as stated above, it is evident that the course of care listed above was efficacious in regards to this injured individual and is documented to have brought about objective and therapeutic gain.

The other items in dispute including 97140, E0745, E1399 and 99070 are not supported in the documentation as to medical necessity. In regards to CPT 97140, manual therapy, the documentation does not support the utilization of this particular item. Specifically, according to the proper CPT coding procedures, CPT code 97140 requires a higher degree of documentation to support its use when used on the same day of service as a manipulative treatment. The CPT ChiroCode Deskbook indicates that for 97140 to be billed on the same date of service as another manipulative code, it should be documented that the manual therapy was performed in a distinctly separate spinal area. Otherwise, the utilization of these two codes in conjunction with each other on the same date of service constitutes unbundling. The dates of service in question where 97140 was used in conjunction with a manipulative procedure includes 09/29/2003, 10/01, 10/03, 10/06, 10/31, 02/11/2004, 02/13, 03/01, 03/03, 03/05, 03/12, 03/15, 03/17, 03/19, 03/22, 03/24, 03/26, 03/29, 03/31, 04/02, 04/05, 04/07, and 04/09.

In regards to E0745 and E1399, the documentation does not support the medical necessity for these particular items. Specifically, it is apparent that the claimant was issued a muscle stimulator device, however, the documentation does not reflect that a successful clinical trial is recorded. Furthermore, there are no significant indications

within the documentation as to the specific response that this unit provided the claimant. There are some anecdotal statements that indicate that some subjective relief was reported. However, there are no significant indications from a subjective or objective standpoint including pre- and post- functional response to establish the medical necessity for the issuance and continued utilization of this device and associated durable medical equipment.

In regards to 99070, supplies and materials, the documentation does not support the medical necessity of these items. Specifically, it appears that on the associated dates of service where 99070 was billed, the documentation indicates that a 4-oz application of an analgesic cream was utilized. However, this appears to be a global, boiler plate type statement and is not patient specific to the utilization of this code. Furthermore, it would be inconceivable that 4 ounces of a cream would be utilized at each date of service. It is believed that this was an issuance of a tube of cream, however the documentation does not reflect this and the medical necessity of this particular item is not established due to the inconsistencies and lack of specificity within the documentation.

As stated above, 97110, 98940, 97116, 97530, 97035, 97112, and 99215 would be considered consistent with standards of care and practice within the chiropractic profession and appear to have been efficacious and are documented to have resulted in objective progress. The other items in dispute including 97140, E0745, E1399 and 99070 are not supported in the documentation as to medical necessity for the specific dates listed above as appearing in the table of disputed charges.

Records indicate that the above captioned individual, a 45-year-old male, was allegedly injured during the course of his normal employment on _____. The history reveals that the above captioned individual reported that while driving his bus another motor vehicle impacted his vehicle resulting in injuries to his neck, lower back, and mid back. The injured individual presented to the office of the AP on 09/04/2003 complaining of multi-level back pain and headaches. Examination revealed subjective, objective and functional deficits including positive orthopedic tests and decreased ranges of motion. The injured individual was initiated on a course of chiropractic care as well as physical therapy. MRI exam of the thoracic and lumbar spine revealed a disc protrusion with foraminal stenosis and nerve root impingement and disc herniations in the lumbar spine. MRI exam also revealed an annular tear with canal stenosis. Electrodiagnostic testing revealed evidence of a right L4 radiculopathy. Epidural steroid injections were employed times three. An extensive course of physical therapy was administered by the attending chiropractor. It is evidenced that the multi-disciplinary course of care resulted in objective and functional progress in regards to this injured individual.

This is based on:

*TWCC Notification of IRO Assignment

*TWCC MR-117

*TWCC-60 Medical Dispute Resolution Request/Response; Table of Disputed Charges

*Cambridge Integrated Services Group, Inc., Explanation of Benefits 09/26/2003 to 09/29/2003

*Cambridge Integrated Services Group, Inc., Explanation of Review 10/03/2003 to 10/17/2003
*Alternate TWCC-62 10/01/2003 to 11/26/2003
*Cambridge Integrated Services Group, Inc., Explanation of Benefits 11/04/2003 to 11/17/2003
*TWCC-62 11/04/2003 to 11/17/2003
*Alternate TWCC-62 01/14/2004; 01/26/2004
*Cambridge Integrated Services Group, Inc., Explanation of Benefits 01/23/2004 and 01/28/2004
*Aternate TWCC 62 02/11/2004; 02/13/2004; 03/01/2004; 03/03/2004; 03/05/2004; 03/08/2004; 03/10/2004; 03/12/2004; 03/15/2004; 03/17/2004; 03/19/2004; 03/22/2004; 03/24/2004; 03/26/2004; 03/29/2004; 03/31/2004; 04/02/2004; 04/05/2004; 04/07/2004; 04/09/2004; 04/14/2004
*TWCC Order for Payment of Independent Review Organization Fee
*TWCC MR-117
*Dr. Patrick Davis, Treatment Summation dated 11/12/2004
*Dr. Patrick Davis, History, Physical and Treatment Summaries dated 10/03/2003; 10/31/2003; 11/26/2003
*Dr. Frank Morrison, EMG/NCS Report dated 10/14/2003
*Texas Imaging and Diagnostic Center, MRI of Lumbar Spine report dated 10/16/2003
*Texas Imaging and Diagnostic Center, MRI of Thoracic Spine report dated 10/16/2003
*Metropolitan Radiology, Lumbar Myelogram, Post-Myelogram Lumbar CT and X-rays of the Lumbar Spine reports dated 05/25/2004
*Dr. Patrick Davis, SOAP notes and Therapeutic Procedures dated from 09/29/2003 to 10/03/2003
*Dr. Patrick Davis, History, Physical and Treatment dated 10/03/2003
*Dr. Patrick Davis, SOAP notes and Therapeutic Procedures dated 10/06/2003 to 10/31/2003
*Dr. Patrick Davis, History, Physical and Treatment dated 10/31/2003
*Dr. Patrick Davis, SOAP notes and Therapeutic Procedures dated 11/03/2003 to 11/26/2003
*Dr. Patrick Davis, History, Physical and Treatment dated 11/26/2003
*Letters from Dr. Patrick Davis to Cambridge Integrated Services dated 03/13/2004, 03/17/2004 and 04/09/2004
*Dr. Patrick Davis, SOAP note dated 01/26/2004
*Charles Willis, MD, ESI and Epidurogram Procedure Note dated 01/21/2004
*Cambridge Integrated Services Group, Inc., Authorization of Service/Procedure dated 01/15/2004
*Dr. Patrick Davis, SOAP note dated 01/28/2004; 01/30/2004; 02/02/2004; 02/04/2004; 02/06/2004; 02/09/2004; 02/11/2004; 02/13/2004
*Letter to Cambridge Integrated Services from Dr. Patrick Davis dated 02/13/2004
*Dr. Patrick Davis, SOAP note dated 03/01/2004
*Dr. Charles Willis, ESI and Epidurogram Procedure Note dated 02/25/2004
*Dr. Patrick Davis, SOAP note dated 03/03/2004; 03/05/2004
*Cambridge Integrated Services Authorization of Service/Procedure dated 02/11/2004
*Dr. Patrick Davis, SOAP note dated 03/08/2004; 03/10/2004; 03/12/2004; 03/15/2004; 03/17/2004; 03/19/2004
*Dr. Charles Willis, ESI and Epidurogram Procedure Note dated 03/17/2004
*Cambridge Integrated Services Authorization of Service/Procedure dated 03/16/2004

*Dr. Patrick Davis, SOAP note dated 03/22/2004; 03/24/2004; 03/26/2004;
03/29/2004; 03/31/2004; 04/02/2004; 04/05/2004; 04/07/2004; 04/09/2004;
*Letter to Cambridge Integrated Services from Dr. Patrick Davis dated 04/09/2004

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**

3rd day of March 2005.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____