

**TEXAS WORKERS' COMPENSATION COMMISSION
MEDICAL REVIEW DIVISION, MS-48
MEDICAL DISPUTE RESOLUTION
FINDINGS AND DECISION**

MDR Tracking Number: M5-05-0443-01

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 10-04-04.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The office visits on 10-06-03 and 12-15-04 **were found** to be medically necessary. All other office visits and electrical stimulation **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 11-19-04, the Medical Review Division submitted a Notice to the 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 97110 for dates of service 10-17-03, 10-22-03, 11-6-03, 11-07-03, 11-10-03, 11-12-03, 11-14-03, 11-17-03, 11-21-03, 11-24-03, 12-17-03, 12-18-03, 1-5-04, 1-7-04, 1-9-04, 1-12-04, 1-14-04, 1-16-04, 1-23-04, 1-26-04, 1-28-04, 1-29-04, 2-2-04, 2-4-04, 2-6-04, 2-9-04, 2-11-04, 2-13-04, 2-16-04, 2-17-04, 2-23-04, 2-18-04, 2-20-04, 2-25-04, 2-27-04, 3-1-04, 3-3-04, 3-4-04, was denied as F2 – charge exceeds the schedule maximum allowance per the Fee Guidelines or as N75 – not appropriately documented. 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 for dates of service 10-29-03, 10-31-03, 11-03-03, 12-15-03, 12-29-03, 12-30-03, 1-2-04 and 2-25-04 was denied as F72 – treatment has exceeded Medical Guidelines for length of treatment sessions. Per 133.304(c) The explanation of benefits shall include the correct payment exception codes required by the Commission’s instructions, and shall provide sufficient explanation to allow the sender to understand the reasons for the insurance carrier’s actions. A generic statement that simply states a conclusion such as “not sufficiently documented” or other similar phrases with no further description of the reason for the reduction or denial of payment does not satisfy the requirements of this section. **Recommend reimbursement of \$295.52 (36.94 X 8 DOS)**

CPT code 97112 for dates of service 2-13-04, 2-23-04 was denied as N75 – not appropriately documented. The requestor submitted no additional SOAP notes or daily notes to support its position. **Recommend no reimbursement.**

CPT code 97035 for dates of service 10-27-03 and 10-29-03 was denied as F72 – treatment has exceeded Medical Guidelines for length of treatment sessions. Per 133.304(c) The explanation of benefits shall include the correct payment exception codes required by the Commission’s instructions, and shall provide sufficient explanation to allow the sender to understand the reasons for the insurance carrier’s actions. **Recommend reimbursement of \$31.12 (\$15.56 X 2 DOS)**

CPT code G0283 for dates of service 10-27-03 and 11-03-03 was denied as F72 – treatment has exceeded Medical Guidelines for length of treatment sessions. Per 133.304(c) The explanation of benefits shall include the correct payment exception codes required by the Commission’s instructions, and shall provide sufficient explanation to allow the sender to understand the reasons for the insurance carrier’s actions. **Recommend reimbursement of \$33.24 (\$16.62 X 2 DOS)**

Pursuant to 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 for dates of service after August 1, 2003 per Commission Rule 134.202(c); in accordance with Medicare program reimbursement methodologies for dates of service after August 1, 2003 per Commission Rule 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 Decision is applicable for dates of service 10-06-03 through 2-25-04 in this dispute.

This Decision and Order is hereby issued this _____ day of February, 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO decision

MEDICAL REVIEW OF TEXAS

[IRO #5259]

3402 Vanshire Drive

Austin, Texas 78738

Phone: 512-402-1400

FAX: 512-402-1012

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 1/20/05

TWCC Case Number:	
MDR Tracking Number:	M5-05-0443-01
Name of Patient:	
Name of URA/Payer:	Mark A. Ritchie, DC
Name of Provider: (ER, Hospital, or Other Facility)	
Name of Physician: (Treating or Requesting)	Mark A. Ritchie, DC

November 17, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Texas Workers Compensation Commission

CLINICAL HISTORY

Documents Reviewed Included the Following:

1. Correspondence, examination and treatment records from the treating doctor.
2. Correspondence and operative reports from the surgeon.

3. MRI Report.
4. Carrier EOBs.
5. FCE.
6. Request for Reconsideration from Integrated Medical Services.

Patient underwent physical medicine treatments prior to surgery, surgery and post-surgical rehabilitative treatment after injuring his left knee at work on 09/22/03.

REQUESTED SERVICE(S)

Office visits and physical medicine services, CPT codes 99203, 99213-25, 99211-25, 97014 and 99212-25.

DECISION

The office visits on 10/06/03 and 12/15/04 are approved. All other treatments and office visits are denied.

RATIONALE/BASIS FOR DECISION

After the claimant's injury and then again after the claimant's surgery, examinations of the claimant would be indicated and medically necessary. Therefore, the office visits on 10/06/03 and 12/15/04 are approved.

Without question, the provider knew of the ligamentous tears very soon after the initiation of treatment and appropriately referred the patient for surgical evaluation on 10/13/03. Based on those reports and referrals, it was foreseeable that the patient was in need of surgical intervention and that the passive and active treatments would be of little or no benefit. The TWCC

Medical Fee Guideline ¹ identifies the criteria that must be met for physical medicine treatment to qualify for reimbursement: (1) the patient's condition shall have the potential for restoration of function and (2) the treatment shall be specific to the injury and provide for the potential improvement of the patient's condition. Potential for restoration of function is identified by progressive return to function. Without demonstration of objective progress, ongoing treatment cannot be reasonably expected to restore this patient's function and thus can only be deemed medically unnecessary. According to the Medicare Guidelines, if a patient's expected restoration potential is insignificant in relation to the extent and duration of the physical medicine services required to achieve such potential, the services are not considered reasonable or necessary. Therefore, other than the 10/06/03 office visit, all treatment prior to the surgery is denied.

¹ 1996 TWCC Medical Fee Guideline Medicine Ground Rules Section I, A. page 31.

While the provider stated on 10/17/03, "He can perform a variety [sic] of aerobic training procedures such as walking or running on a treadmill or similar equipment..." this reviewer questions the claimant's ability to do that with left knee ligamentous tears. And while the provider on that same date stated, "This evidence supports the need for specific rehabilitation exercises [sic] and activities to increase Mr. Merendino's G/IAROMs as close to his normal values..." that was an unrealistic goal in view of the claimant's documented ligamentous tears.

No documentation was submitted that would support the medical necessity of the repeated office visits (during an established rehabilitative treatment plan) or the passive therapy. There was also no documentation to support the medical necessity of any treatment after 02/25/04.