

MDR Tracking Number: M5-05-0465-01

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 10-06-04.

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.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The therapeutic exercises rendered from 10/6/03 through 10/16/03 **were found** to be medically necessary. The office visits, neuromuscular re-education, unlisted procedure, and manual therapy techniques rendered from 10/6/03 through 10/16/03 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 Medicare program reimbursement methodologies for dates of service on or after 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 Order is applicable to dates of service 510/6/03 through 10/16/03 as outlined above 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 Decision and Order is hereby issued this 24th day of November 2004.

Regina L. Cleave  
Medical Dispute Resolution Officer  
Medical Review Division

RLC/rlc

Enclosure: IRO decision

November 22, 2004

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

Re: Medical Dispute Resolution  
MDR #: M5-05-0465-01  
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 licensed 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:

- Medical report 09/23/03
- Office notes & therapy October 3,7,8,9,16, 2003

Information provided by Respondent:

- Case summary 11/09/04 & correspondence
- EMS report \_\_\_
- X-ray 07/29/03
- TWCC work status reports 07/15 – 10/17/2003

- Clinical records from Treating Doctor:
    - Initial evaluation 08/08/03
    - Letter of medical necessity 08/22/03
    - Office notes 08/18,20,25, 09/5,17,26,29/2003
    - Medical histories 10/15 & 10/17/2003
  - EMG/NCV 10/01/03
- Information provided by Pain Management Specialist:
- Office notes 08/20, 09/17, 10/15/2003

**Clinical History:**

This patient underwent physical medicine treatments after a work-related injury to her feet and ankles on \_\_\_\_.

**Disputed Services:**

Physical medicine services 99213, 97110, 97112, 97139 & 97140 during the period of 10/06/03 through 10/16/03.

**Decision:**

The reviewer partially disagrees with the determination of the insurance carrier and is of the opinion that all therapeutic exercises (97110) in dispute as stated above were medically necessary. All other treatment and services in dispute as stated above were not medically necessary in this case.

**Rationale:**

Expectation of improvement in a patient's condition should be established based on success of treatment. Continued treatment is expected to improve the patient's condition and initiate restoration of function. If treatment does not produce the expected positive results, it is not reasonable to continue that course of treatment. With documentation of improvement in the patient's condition and restoration of function, continued treatment may be reasonable and necessary to effect additional gains. In this case, there is adequate documentation (08/08/03, 09/23/04 and 10/15/03 examinations) of objective and functional improvement in this patient's condition. Specifically, the patient's pain ratings decreased and her ankle ranges of motion increased to normal. For that reason, statutory requirements<sup>1</sup> were met since the patient obtained relief, promotion of recovery was accomplished and there was an enhancement of the employee's ability to return to employment. Therefore, all therapeutic exercises (97110) were medically necessary.

However, there was insufficient documentation to support the medical necessity of neuromuscular education (97112), unlisted procedure (97139-EU) and manual therapy (97140). In fact, there were no daily notes or medical records to document that these procedures were even performed. Based on CPT <sup>2</sup>, there is also no support for the medical necessity for the office visits (99213) since this high level of E/M service on each and every visit would not be indicated during an established treatment plan.

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<sup>1</sup> Texas Labor Code 408.021

<sup>2</sup> *CPT 2004: Physician's Current Procedural Terminology, Fourth Edition, Revised.* (American Medical Association, Chicago, IL 1999),