

MDR Tracking Number: M5-05-0599-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 10-21-04.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on 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.

The supplies and materials (brace), unlisted therapeutic procedure, manipulation, and stimulation from 3-23-04 through 7-22-04 were 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 11-22-04 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 98941 for dates of service 3-25-04, 3-30-04, 4-6-04, 4-10-04, 4-13-04, 4-22-04, 6-1-04, 6-7-04, 6-8-04, 6-10-04 and 6-15-04 were denied by the carrier as "F" - the code or modifier billed is invalid". Ingenix Encoder Pro defines CPT code 98941 as "Chiropractic manipulative treatment (CMT); spinal, three to four regions": The requestor justifies its use of this code as "Injury to the lumbosacral area involves L5/S1, facet joints and sacroiliac joints. L5 is part of lumbar spine. S1 is used as the top part of sacrum. Sacrum and pelvis joints are the sacroiliac joint. So the 98941 code is justified and is medically necessary." The requestor billed \$41.89 and the MAR is \$43.64. Per Rule 134.202(d), reimbursement shall be the least of the (1) MAR amount as established by this rule or, (2) the health care provider's usual and customary charge). **Recommend reimbursement of \$460.79. (\$41.89 x 11 DOS)**

CPT code 98941 for dates of service 4-17-04, 4-29-04, 5-4-04 and 5-6-04 were denied by the carrier as "D" the provider has billed for the exact services on another bill". Per rule 133.304 (c) the carrier didn't specify which service this was a duplicate to and no other EOB's were submitted, therefore it will be reviewed according to the Medical Fee Guidelines. The requestor billed \$41.89 and the MAR is \$43.64. Per Rule 134.202(d), reimbursement shall be the least of the (1) MAR amount as established by this rule or, (2) the health care provider's usual and customary charge). **Recommend reimbursement of \$167.56. (\$41.89 x 4 DOS)**

CPT code 97035 for dates of service 4-17-04 and 4-29-04 were denied by the carrier as "D" - the provider has billed for the exact services on another bill". Per rule 133.304 (c) the carrier didn't specify which service this was a duplicate to and no other EOB's were submitted, therefore it will be reviewed according to the Medical Fee Guidelines. The requestor billed \$24.00 and the MAR is \$14.81. Per Rule 134.202(d), reimbursement shall be the least of the (1) MAR amount as established by this rule or, (2) the health care provider's usual and customary charge). **Recommend reimbursement of \$29.62. (\$14.81 x 2 DOS)**

CPT code 98941 for dates of service 5-8-04, 5-11-04, 5-13-04, 5-15-04, 5-18-04, 5-20-04, 5-25-04, and 5-27-04 were denied by the carrier as "G" - the provider has billed for a procedure on the same date and on the same site as a more extensive procedure". Per Rule 133.304 (c) Carrier didn't specify which service this was global to, therefore it will be reviewed according to the Medical Fee Guidelines. The requestor billed \$41.89 and the MAR is \$43.64. Per Rule 134.202(d), reimbursement shall be the least of the (1) MAR amount as established by this rule or, (2) the health care provider's usual and customary charge). **Recommend reimbursement of \$335.12. (\$41.89 x 8 DOS)**

Regarding CPT code 97012 on 6-7-04. Per Rule 133.307 (e)(2)(A) the requestor must submit a copy of all medical bills as originally submitted to the carrier for reconsideration in accordance with 133.304. No HCFA's were provided. **Recommend no reimbursement.**

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); 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 3-23-04 through 7-22-04 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 21<sup>st</sup> day of January 2005.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

DA/da  
Enclosure: IRO decision

January 14, 2005

Texas Workers Compensation Commission  
MS48  
7551 Metro Center Drive, Suite 100  
Austin, Texas 78744-1609

### **NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-05-0599-01**  
**TWCC #:**  
**Injured Employee:**  
**Requestor: William D. Summers, D.C.**  
**Respondent: Texas Mutual Ins.**  
**MAXIMUS Case #: TW04-0500**

MAXIMUS has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The MAXIMUS IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to MAXIMUS for independent review in accordance with this Rule.

MAXIMUS has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the MAXIMUS external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The MAXIMUS chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to MAXIMUS for independent review. In addition, the MAXIMUS chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

#### Clinical History

This case concerns a 39 year-old male who sustained a work related injury on \_\_\_\_\_. The patient reported that while at work he injured his low back when he attempted to lift a pipe that was frozen to the ground. The patient presented to the treating doctors office on 3/23/04 and was diagnosed with lumbar sprain, facet syndrome, and SI joint dysfunction complicated by a transitional L5. X-rays of the low back were performed on 3/23/04. An MRI of the lumbar spine performed on 3/1/04 showed a disc bulge at the L5-S1 level. On 4/20/04 the patient underwent an EMG that was reported to be normal. Treatment for this patient's condition has included medications, ultrasound, chiropractic manipulation, and acupuncture.

### Requested Services

Supplies/materials (brace), unlisted therapeutic procedure, manipulation, and stimulation 3/23/04 through 7/22/04.

### Documents and/or information used by the reviewer to reach a decision:

#### *Documents Submitted by Requestor:*

1. Chart Notes 3/23/04 – 8/10/04
2. Impairment Rating 7/30/04
3. DDE 8/17/04
4. EMG report 4/20/04
5. MRI report 3/1/04

#### *Documents Submitted by Respondent:*

1. No Documents Submitted

### Decision

The Carrier's denial of authorization for the requested services is overturned.

### Rationale/Basis for Decision

The MAXIMUS chiropractor reviewer noted that this case concerns a 39 year-old male who sustained a work related injury to his low back on \_\_\_\_\_. The MAXIMUS chiropractor reviewer indicated that the patient began care with the current treating doctor on 3/23/04 and declared to be at maximum medical improvement on 7/29/04. The MAXIMUS chiropractor reviewer noted that the patient had made improvement in his range of motion findings and pain levels. The MAXIMUS chiropractor reviewer also noted that the patient was released from care with the suggestion to avoid moderately heavy work. The MAXIMUS chiropractor reviewer indicated that the patient had been treated with manipulation, ultrasound, acupuncture, muscle stimulation, and a back brace. The MAXIMUS chiropractor reviewer explained that these are all reasonable and acceptable forms of care and considered medically necessary as the first form of active therapy. Therefore, the MAXIMUS chiropractor consultant concluded that the supplies/materials (brace), unlisted therapeutic procedure, manipulation, and stimulation 3/23/04 through 7/22/04 were medically necessary to treat this patient's condition.

Sincerely,  
**MAXIMUS**

Elizabeth McDonald  
State Appeals Department