

MDR Tracking Number: M5-05-0687-01

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. This dispute was received on 10-28-04.

The Medical Review 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 office visits and manual therapy technique that were denied with a “U” from 11-05-03 through 1-16-04 were not medically necessary. Therefore, the requestor is not entitled to a reimbursement of the paid IRO fee.

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 11-30-04 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.

The carrier denied CPT Code 97140 for dates of service 11-03-03, 11-05-03 and 11-07-03 with a “F” – Charge for the procedure exceeds the amount in the fee schedule. However, Trailblazer Health Enterprises, LLC Medicare Fee Schedule lists \$33.90 as the correct MAR for Harris County for 2003. **Recommend reimbursement of \$101.70 (\$33.90 x 3 DOS).**

The carrier denied CPT Code 97110 for dates of service 11-19-03 with a “F” – Charge for the procedure exceeds the amount in the fee schedule. 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.**

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 11-03-03 through 11-07-03 as outlined above in this dispute.

This Decision and Order is hereby issued this 2nd day of February 2005.

Donna Auby
Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

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

Date: 2/1/2005
Injured Employee:
MDR : M5-05-0687-01
TWCC #:
MCMC Certification #: 5294

DETERMINATION: Deny

Requested Services: Please review the item in dispute regarding CPT Codes 99212, office visits; and 97140, manual therapy technique.

Dates of service in dispute 11/05/2004 through 01/16/2004.

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 11/29/2004, concerning the medical necessity of the above referenced requested service, hereby finds the following:

The medical necessity for the listing of services above for the dates of service captioned above is not established.

This decision is based on:

- *Notification of IRO Assignment Dated 11/29/2004
- *TWCC0-60 stamped received 10/28/2004 8 pgs
- *Alternate TWCC-62 11 pgs
- *Pain and Recovery Clinic letter dated 12/20/2004
- *TWCC MR-117 dated 11/30/2004
- *Requestor's Position Statement undated 12 pgs
- *Tomball Regional Hospital Records for 07/10/2003 to 07/16/2003 31 pgs
- *Texas Orthopedic and Sports Medicine follow-up exam dated 07/24/2003
- *Xray report left wrist 07/24/2003

- *Employee's Request to Change Treating Doctors dated 09/09/2003
- *Pain and Recovery Clinic Initial Medical Report dated 07/11/2003 4 pgs, LPT Initial Evaluation dated 09/12/2003 3 pgs, Subsequent Medical Reports dated 09/22/2003, 10/22/2003 2 pgs, 11/20/2003, 03/16/2004 2 pgs, 04/21/2004 2 pgs, 05/25/2004 2 pgs, 06/29/2004 2 pgs, 08/11/2004 2 pgs; Physical Therapy Progress Notes dated 10/15/2003 3 pgs, 11/19/2003 3 pgs, 01/07/2004 2 pgs, 08/11/2004 2 pgs; Daily Progress Note dated 11/03/2003 through 01/16/2004 26 pgs; letter to Dr. Fulford dated 11/25/2003 3 pgs; Dispute Resolution dated 10/21/2003 2 pgs; letter to TWCC dated 12/15/2003 2 pgs
- *TWCC-73s dated 08/25/2003, 09/22/2003, 10/22/2003, 11/20/2003, 03/16/2004, 04/21/2004, 05/25/2004, 06/29/2004, 08/01/2004, 10/02/2003
- *Orthopedic Care Center, PA History and Physical dated 10/01/2003 2 pgs, 11/12/2003, 03/31/2004, 04/29/2004
- *North Houston Imaging Center Xrays of Right Ribs report dated 10/02/2003
- *Interim TWCC-21 dated 08/06/2003
- *Receipt for Texas Mutual Insurance Company check # 03780033
- *TWCC EES-14 dated 08/20/2004
- *Ryder Insulation letter of 09/04/2003
- *Damian Chaupin, MD, Disability Certificate dated 09/06/2003
- *TWCC ORO-1 dated 10/02/2003 2 pgs
- *TWCC EES-71 dated 10/02/2003, 05/14/2004
- *TWCC letter to Mario Salgado dated 11/07/2003
- *Ryder Insulation letter to Dean McMillan, MD, dated 11/21/2003 2 pgs
- *Robert Fulford, MD, Required Medical Examination dated 12/09/2003 4 pgs
- *Dean McMillan, MD letter to Robert Fulford, MD dated 12/08/2003
- *Masroor Ahmed, MD, Designated Doctor Examination dated 05/25/2004

Records indicate that the above captioned individual was allegedly injured as a result of an occupational injury that occurred on _____. The history reveals that the above individual fell approximately 15 feet to the ground and sustained multiple injuries. He was taken to a local emergency facility and remained hospitalized for several days for treatment of fractures to the left radius, right clavicle and three ribs on the right side. Surgery was performed on the next day, 07/12/2003, to install an external fixator device to the right forearm. It was determined that he was not healing properly and/or efficaciously, so a course of rehabilitation was recommended. An initial report, dated 07/11/2003, indicates that the injured individual applied successfully for a change of treating doctor and rehabilitation commenced under the administration of the current AP. At that time, pain and local weakness of associated musculature was reported, and documented. A course of passive rehab commenced with active therapy planned as the next phase of care. Serial objective examination findings reveal very slow progress through 01/07/2004. The next, and final, objective examination was performed on 08/11/2004, some seven months later and revealed no significant objective changes. It should be noted that the injured individual was returned to modified, restricted duties at his employment in January of 2004. It is the AP's apparent position that this has hindered further progress.

The documentation does not provide a clear, clinical substantiation of the medical necessity for the services listed above from 11/05/2004 through 01/16/2005. Specifically, it is evident that the injured individual sustained profound injuries through the work incident. It could be reasonably expected, given the circumstances, objective findings and mechanism of injury, that the injured individual would require a longer

period of treatment and recovery. However as of 11/05/2004, this individual had participated in as many as 16 months of rehabilitation under the administration of the attending provider (AP). Even in light of the injured individual's profound injuries and objective findings, this would exceed reasonable clinical expectations and would be inconsistent with standards of care and practice within the associated disciplines. Furthermore, regular re-examinations revealed progress (though minimal) through 01/07/2004, evidenced by range of motion findings and muscle/grip strength. However there is a significant gap in re-examinations at that point with the next one occurring some seven months later. Results of the 08/11/2004 examination do not provide clear substantiation for the continuance of similar care, given the lack of demonstrable progress. In most areas, the objective data plateaus and in some areas regresses.

Given the lack of clear demonstrable progress through the majority of 2004 in response to continued therapy and care, the medical necessity for care beginning 11/05/2004 and beyond is not established upon review of the available information provided this reviewer.

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

1st day of February 2005.

Signature of IRO Employee: _____

Printed Name of IRO Employee: _____