

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER: 453-05-4539.M5

MDR Tracking Number: M5-05-0946-01

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 11-22-04.

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 office visits, therapeutic exercises, group therapeutic procedures, electrical stimulation, massage and chiropractic manipulation from 12-23-03 through 8-9-04 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 12-9-04 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.

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.

CPT code 95851 for date of service 11-24-03 and 4-22-04 was denied by the carrier as "G" – This procedure is incidental to the related primary procedure billed. Per rule 133.304 (c) Carrier didn't specify which service this was global to. **Recommend reimbursement of \$61.20 (\$30.60 x 2 DOS).**

CPT code 99070 for date of service 11-24-03, 11-25-03, 11-26-03 was denied by the carrier as "G" – This is a bundled procedure - no separate payment allowed. Per rule 133.304 (c) Carrier didn't specify which service this was global to. Per 134.202 (c) 6) for products and services for which CMS or the commission does not establish a relative value unit and/or a payment amount, the carrier shall assign a relative value, which may be based on nationally recognized published relative value studies, published commission medical dispute decision, and values assigned for services involving similar work and resource commitments. **Recommend reimbursement of these services.**

Regarding services for the following dates: 1-12-04, 3-9-04, (CPT Code 97024) for 5-10-04-7-15-04, 7-16-04, 7-21-04, (CPT Codes 97024, 97139, 98943) for 7-23-04: Neither the carrier nor the

requestor provided EOB's for these dates. The requestor submitted convincing evidence of carrier receipt of provider's request for an EOB in accordance with 133.307 (e)(2)(B). Respondent did not provide

EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement as outlined below:**

1-12-04	CPT Code 99212	\$41.91
1-12-04	CPT Code 97150	\$20.97
1-12-04	CPT Code 98943	\$27.97
03-09-04	CPT Code 99212	\$41.91
5-10-04	CPT Code 97024	\$ 5.53
7-15-04	CPT Code 99211	\$23.35
7-15-04	CPT Code 97150	\$20.97
7-15-04	CPT Code 97139	\$18.25
7-15-04	CPT Code 98943	\$27.97
7-19-04	CPT Code 97750 (4)	\$133.60
7-21-04	CPT Code 99211	\$23.35
7-21-04	CPT Code 97150	\$20.97
7-21-04	CPT Code 97139	\$18.25
7-21-04	CPT Code 98943	\$27.97
7-23-04	CPT Code 97024	\$ 5.53
7-23-04	CPT Code 97139	\$18.25
7-23-04	CPT Code 98943	\$27.97

The carrier denied CPT Code 99080-73 for dates of service 1-20-04 and 7-2-04 with a V for unnecessary medical treatment based on a peer review, however, the TWCC-73 is a required report and is not subject to an IRO review. Requester submitted relevant information to support delivery of service. Per 134.1(c) **recommend reimbursement of CPT Code 99080-73 for two dates of service for a total of \$30.00.**

CPT code 98943 on 3-31-04 was denied with an R – “This service is for a condition which is not related to the covered work related injury. Please submit documentation to support the relatedness of services rendered to the work related injury.” The requestor did submit additional documentation in response to the TWCC 21 which states that the compensable injury is sprain of the right knee with tear of the medial meniscus. **Recommend reimbursement of \$27.97.**

Regarding CPT Code 97110 for dates of service 1-12-04-7-15-04 and 7-21-04: 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 3-9-04 through 7-23-04 as outlined above in this dispute.

This Decision and Order is hereby issued this 26th day of January 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

Envoy Medical Systems, LP

1726 Cricket Hollow

Austin, Texas 78758

Fax 512/491-5145

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

January 4, 2005

Re: IRO Case # M5-05-0946-01

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic who is licensed in Texas, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to Envoy for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits
3. TWCC work status reports
4. Radiology report right knee 9/1/03
5. MRI report right knee 9/30/03
6. Dr. Gonzalez report 11/6/03
7. PT initial evaluation 11/10/03
8. Trinity Medical Center report 11/14/03
9. Dr. Wyatt narrative reports and treatment notes
10. TWCC request to change treating doctor 11/18/03
11. Report 12/10/03
12. Dr. Light report 12/12/03
13. Bone scan report 2/16/04
14. D.D. report 9/3/04
15. Dr. Wyatt therapeutic procedures charts

History

The patient injured his right knee in ___ when he slipped off a rail and hit the inside of his knee on the rail. He has had numerous medical evaluations, x-rays and MRI, and he has been treated with medication, physical therapy and surgery.

Requested Service(s)

Office visits, therap exercises, group therap procedure, electrical stim, massage, chiro manip 12/23/03 – 8/9/04

Decision

I agree with the carrier's decision to deny the requested services.

Rationale

According to the documentation provided for this review, the patient received about one month of chiropractic treatment prior to the dates in this dispute. The records fail to show any improvement in function or symptoms during the period prior to the dates in dispute, indicating that treatment had failed to be beneficial to the patient.

The patient underwent arthroscopic right knee surgery on 3/15/04, indicating that treatment prior to 3/15/04 had failed. An initial trial of conservative treatment up to but not including the dates in dispute was appropriate. The documentation, however, failed to show that that treatment was beneficial to the patient. Therefore, after the initial trial, the further conservative treatment rendered was not reasonable or necessary.

Post-surgical rehabilitative treatment is usual and customary for most knee surgeries. However, based on the records provided for review, the treatment in this case appears to have been inappropriate in that the patient's condition failed to improve. The designated doctor's report of 9/3/04, some six months after surgery, and after intense post-operative treatment, indicates that the patient was still using a cane and, "he has pain, swelling and crepitus in his knee." The report also noted that the patient had not made any significant improvement in recent months, and the patient was placed at MMI. Based on the records, it appears that treatment was overutilized, inappropriate, and encouraged doctor dependency.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Daniel Y. Chin, for GP