

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER: SOAH DOCKET NO. 453-05-7153.M5

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, 133.307 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 01-06-05.

Per Rule 133.308(e)(1) date of service 01-05-04 was not timely filed and will therefore not be part of this review.

The IRO reviewed office visits, therapeutic activities, electrical stimulation-unattended, therapeutic exercises, group therapeutic procedures, unusual special service (translation) hot/cold pack therapy and self care management training and unlisted modality rendered from 01-07-04 through 04-22-04 that were denied based upon "U".

The IRO determined that the office visits on dates of service 01-07-04, 02-23-04, 03-26-04 and 04-22-04 **were** medically necessary. The IRO further determined that the remainder of the services in dispute **were not** medically necessary. The amount of reimbursement due from the carrier for the medical necessity issues equals **\$272.96**.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the **majority** of issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

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

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** 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 03-01-05, 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 99499-52 date of service 01-07-04 denied with denial code "F/JM" (accurate coding of services rendered is essential for reimbursement. The code and/or modifier billed is invalid). Per Ingenix.Pro.com modifier 52 is not valid. No reimbursement recommended.

Review of CPT code 99499 date of service 01-07-04 and code 99499-52 date of service 01-23-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

Review of CPT code 97110 and 97110-GP dates of service 01-07-04, 01-12-04, 01-14-04, 01-16-04, 01-21-04, 01-22-04, 01-23-04, 02-23-04, 02-25-04, 02-27-04 and 03-10-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide

convincing evidence of carrier receipt of the providers request for EOBs. In addition, recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings 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 (MRD) has reviewed the matters in light of the Commission requirements for proper documentation. No reimbursement is recommended.

CPT code 99199 dates of service 01-07-04, 01-09-04, 01-12-04, 01-14-04, 01-26-04, 01-28-04 and 01-30-04 denied with denial code "G" (reimbursement for this procedure is included in the basic allowance for another procedure). Per Rule 133.304(c) and 134.202(a)(4) the carrier did not specify which code 99199 was included in the basic allowance of. This is a DOP code. Reimbursement by the insurance carrier will be the lesser of the billed charge, or the MAR. CPT codes for which no reimbursement is listed (DOP) shall be reimbursed at the fair and reasonable rate. Relevant information (i.e. redacted EOBs-with same or similar services-showing amount billed is fair and reasonable) were not submitted by the requestor to confirm that \$25.00 is their usual and customary charge for this service. Reimbursement is not recommended.

CPT code 99214 date of service 01-14-04 denied with denial code "Y/F" (reduced or denied in accordance with the appropriate fee guideline ground rule and/or maximum allowable reimbursement (MAR)). The carrier has made no payment. Per Rule 134.202(c)(1) reimbursement is recommended in the amount of **\$106.36 (\$85.09 X 125%)**.

CPT code 99204 date of service 02-04-04 denied with denial code "R/A" (the treatment/service has been determined to be unrelated to the extent of the injury. Final adjudication has not taken place on this issue). On 01-10-05 following a Benefit Review Conference the extent issues had been resolved. Reimbursement is recommended per Rule 124.202(c)(1) in the amount of **\$174.91 (\$139.93 X 125%)**.

CPT code 99358-52 dates of service 02-19-04, 03-19-04 and 03-22-04 denied with denial code "U" (unnecessary medical treatment without peer review). Code 99358-52 is invalid for Medicare with modifier 52. No reimbursement is recommended.

CPT code 99199 dates of service 02-23-04, 02-25-04, 02-27-04, 03-01-04 and 03-04-04 denied with denial code "Y/F" (reduced or denied in accordance with the appropriate fee guideline ground rule and/or maximum allowable reimbursement (MAR)). The carrier has made no payment. This is a DOP code. . Reimbursement by the insurance carrier will be the lesser of the billed charge, or the MAR. CPT codes for which no reimbursement is listed (DOP) shall be reimbursed at the fair and reasonable rate. Relevant information (i.e. redacted EOBs-with same or similar services-showing amount billed is fair and reasonable) were not submitted by the requestor to confirm that \$25.00 is their usual and customary charge for this service. Reimbursement is not recommended.

CPT code 99213 date of service 03-01-04 denied with denial code "D" (the provider has billed for the exact services on a previous bill). Since neither party submitted an original EOB for review reimbursement cannot be determined, therefore no reimbursement is recommended.

Review of CPT code 99080 date of service 03-18-04 revealed that neither party submitted copies of EOBs. Per Rule 133.307(e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement is recommended.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees for dates of service 01-07-04, 01-14-04, 02-04-04, 02-23-04, 03-26-04 and 04-22-04 totaling **\$554.23** in accordance with the Medicare program reimbursement methodologies effective 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 Findings and Decision and Order are hereby issued this 26th day of April 2005.

Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision



7600 Chevy Chase, Suite 400
Austin, Texas 78752
Phone: (512) 371-8100
Fax: (800) 580-3123

NOTICE OF INDEPENDENT REVIEW DECISION – AMENDED DECISION

Original Date: April 7, 2005

Amend Date: April 25, 2005

To The Attention Of: TWCC
7551 Metro Center Drive, Suite 100, MS-48
Austin, TX 78744-16091

RE: Injured Worker:
MDR Tracking #: M5-05-1327-01
IRO Certificate #: 5242

Forté has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to Forté for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

Forté has performed an independent review of the proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents

utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic reviewer who has an ADL certification. The reviewer has signed a certification statement stating 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 the referral to for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

Submitted by Requester:

- Table of disputed services
- Narrative reports
- Examination reports
- MRI reports
- Designated doctor reports
- TWCC forms
- Exercise reports
- Daily SOAP notes
- Extensive statement letter from the treating provider
- Total of 453 pages submitted for review

Submitted by Respondent:

- No documents submitted

Clinical History

According to the supplied documentation, the claimant sustained an injury on ___ when he fell off a 10 foot ladder and landed on a concrete floor. The claimant reported pain in his lower back and left lower extremity including his left knee. The claimant received no initial care at an emergency room or from any other physician until 1/17/03 when he reported to Launcy Medical and Surgical Group requesting treatment. On 1/28/03 a left lower extremity venous Doppler sonogram was performed and was determined to be normal. The claimant began treatment with Larry T. Johnson, M.D. Dr. Johnson prescribed medications and referred the claimant to Rehab First for therapy. On 4/9/03 an EMG study was performed and was determined to be normal.

Daily notes from Rehab First revealed the claimant was undergoing active therapeutic exercises. It appears that sometime during the end of May 2003 the claimant discontinued treatment after 21 physical therapy sessions. The claimant underwent a designated doctor exam on 5/27/03 where it was determined the claimant was not at MMI. On 10/13/03 the claimant was seen by Martin B. Jones,

M.D. who reported the claimant was at clinical MMI on 7/5/03 with a 0% whole person impairment. On 11/3/03 the claimant began therapy at Parker Health Care. An FCE was performed on 11/13/03 that revealed the claimant was unable to work at his previous job duty level. On 11/25/03 the claimant underwent a second EMG that was considered normal. On 12/18/03 the claimant underwent an MRI of the left knee that revealed a bucket handle tear of the posterior horn of the medial meniscus. A mild sprain of the medial collateral and lateral ligaments were also found. Therapy continued on the claimant. The documentation ends here.

Requested Service(s)

97530 – therapeutic activities, 99213, 99214 – office visits, G0283 – electrical stimulation unattended, 97110 – therapeutic exercises, 97150 – group therapeutic procedures, 99199 – unusual special service (translation), 97010 – hot/cold pack, 97535 – self care management training, and 97039 – unlisted modality for dates of service 1/7/04 to 4/22/04.

Decision

I disagree with the carrier and find that the office visits (99213) dated 1/7/04, 2/23/04, 3/26/04, as well as on 4/22/04 were medically necessary. I agree with the carrier that the remainder of the services in dispute were not medically necessary.

Rationale/Basis for Decision

According to the supplied documentation, it appeared the claimant sustained an injury to his left lower extremity and lumbar spine on _____. At the beginning of 2003, the claimant underwent an extensive trial of physical therapy to his left lower extremity to try to help improve his symptoms. The claimant then went approximately 6 months with no medical treatment before deciding to change to Dr. Parker for future treatment. It appears the claimant had not had any treatment for his lumbar spine which appears to have been effectively addressed in November and December 2003. Beyond that time ongoing therapy for the lumbar spine is not seen as reasonable or medically necessary. The MRI performed by Dr. Parker revealed the claimant did have injuries to his left meniscus and future treatment options may have been necessary. Continued and ongoing therapy is not considered reasonable or medically necessary because conservative therapy had been tried and failed in the beginning of 2003. Monthly office visits to monitor the claimant's condition as well as referrals are considered medically necessary. The remainder of the therapy rendered between 1/7/04 through 4/22/04 appears redundant and is not objectively supported by the documentation supplied. Although the treating physician reported the claimant had many subjective complaints, the exam performed on 10/13/03 by Dr. Jones revealed no positive findings orthopedically. Dr. Jones noted the claimant had negative anterior and posterior drawer, negative McMurray's test, no pain or laxity with medial and lateral stress. Dr. Jones noted there was no swelling, no skin changes or tenderness noted in the knee as well as the left lower extremity with the exception of some ill defined tenderness over the proximal anterior foot. Range of motion appeared grossly normal. With no positive orthopedic findings on 10/13/03, there is no objective documentation in the entire file reviewed that would support therapy dated 1/7/04 that continued through 4/22/04.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to TWCC via facsimile or U.S. Postal Service from the office of the IRO on this 25th day of April 2005.

Signature of IRO Employee:

Printed Name of IRO Employee: Denise Schroeder