

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 1-13-05.

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, massage therapy, ultrasound, hot-cold pack, office visit with manipulation, therapeutic activities, therapeutic exercises and electrical stimulation from 1-12-04 through 6-21-04 were not medically necessary.

Based on review of the disputed issues within the request, the Medical Review Division has determined that medical necessity fees were not the only fees involved in the medical dispute to be resolved.

On 2-3-05 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.

Neither the carrier nor the requestor provided EOB's for CPT code 97124 on 2-11-04 and 3-9-04. There is no "convincing evidence of the carrier's receipt of the provider request for an EOB" according to 133.307 (e)(2)(B). Per Rule 133.307 (g) (3)(B) the additional documentation shall include a copy of any pertinent medical records or other documents relevant to the fee dispute.

**No reimbursement recommended.**

Neither the carrier nor the requestor provided EOB's for CPT code 97110 on 3-9-04 and 3-10-04. There is no "convincing evidence of the carrier's receipt of the provider request for an EOB" according to 133.307 (e)(2)(B). Per Rule 133.307 (g) (3)(B) the additional documentation shall include a copy of any pertinent medical records or other documents relevant to the fee dispute. 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. **No reimbursement recommended.**

Neither the carrier nor the requestor provided EOB's for CPT code 97530 on 3-9-04 and 3-10-04. There is no "convincing evidence of the carrier's receipt of the provider request for an EOB" according to 133.307 (e)(2)(B). Per Rule 133.307 (g) (3)(B) the additional documentation shall include a copy of any pertinent medical records or other documents relevant to the fee dispute.

**No reimbursement recommended.**

CPT code 97530 on 6-14-04 was paid by the carrier per check #05878594. **No additional reimbursement recommended.**

Regarding CPT code 99213 on 8-10-04: Neither the carrier nor the requestor provided EOB's. 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 of \$50.00.**

Regarding CPT code 97110 on 8-10-04: Neither the carrier nor the requestor provided EOB's. 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). 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. **No reimbursement recommended.**

Regarding CPT code 97124 on 8-10-04: Neither the carrier nor the requestor provided EOB's. 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 of \$28.40 MAR.**

Regarding CPT code 97530(2 units) on 8-10-04: Neither the carrier nor the requestor provided EOB's. 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 of \$70.00.**

CPT code 99499L5WP was billed using an incorrect modifier. **Per 134.202(e)(6) and (9) recommend no reimbursement.**

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 **totaling \$148.40** for date of service 8-10-04 outlined above as follows:

- 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 Decision and Order is hereby issued this 30<sup>th</sup> day of March 2005.

Donna Auby  
Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision

#### NOTICE OF INDEPENDENT REVIEW DECISION

March 17, 2005

Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
7551 Metro Center Drive, Suite 100, MS 48  
Austin, TX 78744-1609

RE: Injured Worker:  
MDR Tracking #: M5-05-1430-01  
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) 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 TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered 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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in Chiropractic Medicine. TMF's health care professional 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 TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

#### Clinical History

This 41 year-old male was injured on \_\_\_ while pulling a fifth wheel on a tractor and developed right shoulder pain, neck pain, right wrist pain, and numbness in the fingers of the right hand. He has been treated with therapy, medications, and surgery.

#### Requested Service(s)

Office visit, massage therapy, ultrasound, hot/cold pack, office visit with manipulation, therapeutic activities, therapeutic exercises, electrical stimulation for dates of service 01/12/04 through 06/21/04

#### Decision

It is determined that there is no medical necessity for the office visit, massage therapy, ultrasound, hot/cold pack, office visit with manipulation, therapeutic activities, therapeutic exercises, and electrical stimulation for dates of service 01/12/04 through 06/21/04 to treat this patient's medical condition.

#### Rationale/Basis for Decision

Physical medicine is an accepted part of a rehabilitation program following an injury. However, for medical necessity to be established, there must be an expectation of recovery or improvement within a reasonable and generally predictable time period. In addition, the frequency, type and duration of services must be reasonable and consistent with the standards of the health care community. 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.

In this case, medical record documentation does not indicate an objective or functional improvement in this patient's condition and no evidence of a change of treatment plan to justify additional treatment in the absence of positive response to prior treatment. The patient obtained no relief, promotion of recovery was not accomplished and there was no enhancement of the patient's ability to return to or

retain employment. Therefore, the office visit, massage therapy, ultrasound, hot/cold pack, office visit with manipulation, therapeutic activities, therapeutic exercises, and electrical stimulation for dates of service 01/12/04 through 06/21/04 were not medically necessary to treat this patient's medical condition.

Sincerely,

A handwritten signature in black ink, appearing to read "Gordon B. Strom, Jr.", written in a cursive style.

Gordon B. Strom, Jr., MD  
Director of Medical Assessment

GBS:dm

Attachment

**Information Submitted to TMF for TWCC Review**

**Patient Name:**

**TWCC ID #: M5-05-1430-01**

**Information Submitted by Requestor:**

- Progress Notes
- Functional capacity evaluation
- Diagnostic Tests
- Required Medical Evaluation
- Concurrent Review
- Peer Review
- Claims and Miscellaneous

**Information Submitted by Respondent:**

- Progress Notes
- Diagnostic Tests
- Peer Review
- Concurrent Review
- Procedure Notes