MDR Tracking Number: M5-05-1594-01

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 (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 1-31-05.

In accordance with Rule 133.308 (e)(1), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The following date(s) of service are not timely and are not eligible for this review: 4-22-03 through 1-30-04.

CPT codes 97032, 97112, and 97124 on 3-3-04 and 97032 on 3-5-04 were withdrawn by the requestor in a letter dated June 10, 2005. They will not be a part of this review.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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

The IRO reviewed chiropractic manipulative treatment, therapeutic exercises, group therapeutic procedures, office visits, ultrasound, massage therapy, neuromuscular reeducation, gait training, electrical stimulation and DME that were denied for medical necessity from 3-3-04 through 5-7-04

The chiropractic manipulative treatment, therapeutic exercises, group therapeutic procedures, office visits, ultrasound, massage therapy, neuromuscular reeducation, gait training, electrical stimulation and DME from 4-21-04 through 5-7-04 **were found** to be medically necessary. The chiropractic manipulative treatment, therapeutic exercises, group therapeutic procedures, office visits, ultrasound, massage therapy, neuromuscular reeducation, gait training, electrical stimulation and DME from 3-3-04 through 4-14-04 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services. The amount due the requestor for the medical necessity issues is $852.22.

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 3-9-05 the Medical Review Division submitted a Notice to the 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 requestor billed under the MAR for services on several dates of service. 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.

Regarding CPT code 99212 on 2-2-04, 2-4-04, 2-5-04, 2-9-04, 2-10-04, 2-11-04, 2-16-04, 2-20-04, 2-23-04, 2-24-04, 2-26-04, 3-8-04, 3-10-04, 3-12-04, 3-19-04, 3-22-04, 3-24-04, 4-26-04, and 5-7-04: Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of $909.33 ($46.41 X 2 DOS plus $48.03 X 17 DOS).**

Regarding CPT code 97035 on 2-2-04 (4 units), 2-4-04, 2-5-04, 2-9-04, 2-10-04, 2-16-04, 2-20-04, 2-23-04, 2-24-04, 3-8-04, 3-19-04, 3-22-04, 3-24-04, 4-26-04 (2 units), and 5-7-04: Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of $361.40 ($15.56 X 7 units plus $15.78 X 16 units).**

Regarding CPT code 97124 on 2-2-04, 2-5-04, 2-9-04, 2-11-04, 2-16-04, 2-20-04, 2-26-04, 3-22-04: Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of $224.56 ($28.07 X 8 DOS).**

Regarding CPT code 97150 on 2-2-04, 2-5-04, 2-9-04, 2-10-04, 2-11-04, 2-16-04, 2-20-04, 2-23-04, 2-24-04, 2-26-04, 3-5-04, 3-8-04, 3-10-04, 3-12-04, 3-19-04, 3-22-04, 3-24-04, 4-26-04 (3 units), and 5-5-04: Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of $1,510.18 ($22.54 X 67 units).**

Regarding CPT code 97032 on 2-4-04, 2-9-04, 2-10-04, 2-16-04, 2-20-04, 2-23-04, 2-24-04, 3-8-04, 3-10-04 (3 units), 3-19-04 (2 units), 3-24-04, 4-26-04 (2 units) and 5-5-04 (2 units): Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of $360.54 ($20.03 X 18 units).**

Regarding CPT code 97112 on 2-5-04, 2-23-04, 3-8-04 (2 units), 3-12-04 (3 units) and 3-22-04 (2 units): Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of $330.75 ($36.75 X 9 units).**

Regarding CPT code 97150 on 2-2-04 (4 units), 2-5-04 (3 units), 2-9-04 (4 units), 2-10-04 (2 units), 2-11-04 (4 units), 2-16-04 (4 units), 2-20-04 (4 units), 2-23-04 (4 units), 2-24-04 (4 units), 2-26-04 (4 units), 3-5-04 (4 units), 3-8-04 (3 units), 3-10-04 (3 units), 3-12-04 (2 units), 3-19-04 (3 units), 3-22-04 (3 units), 3-24-04 (3 units), 4-26-04 (3 units), 4-27-04 (3 units) 4-30-04 (3 units), and 5-5-04 (3 units): Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of $1,577.80 ($22.54 X 70 units).**

Regarding CPT code 97116 on 2-10-04, 2-24-04, 3-10-04 (2 units), 3-19-04 (2 units), 3-24-04 (3 units) and 5-7-04 (3 units): Neither the carrier nor the requestor provided EOB's. The requestor

submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of $378.60 ($31.55 X 12 units).**

Regarding CPT code 97110 on 2-26-04, 4-26-04, 4-27-04, 4-30-04, 5-5-04 and 5-7-04: Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's 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 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. **Recommend no reimbursement.**

Regarding HCPCS Code E1399 on 2-16-04, 3-19-04 and 5-5-04: Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of $60.00.**

Regarding CPT code 97750-FC on 4-14-04: Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B).
Recommend reimbursement of $588.00 ($36.75 X 16 units).

Regarding CPT code 99080-73 on 3-24-04: Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of $15.00.**

Regarding CPT code 98940 on 5-5-04 and 5-7-04: Neither the carrier nor the requestor provided EOB's. The requestor submitted convincing evidence of carrier receipt of provider's request for EOB's in accordance with 133.307 (e)(2)(B). Respondent did not provide EOB's Per Rule 133.307(e)(3)(B). **Recommend reimbursement of $66.62 ($33.31 X 2 DOS).**

This Finding and Decision is hereby issued this 14th day of June, 2005.

Medical Dispute Resolution Officer
Medical Review Division

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 $7,235.00 from 2-2-04 through 5-7-04 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 14th day of June, 2005.

Manager, Medical Necessity Team
Medical Dispute Resolution
Medical Review Division

Enclosure: IRO decision

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

Date:	**4/20/05** **4/22/05 (Amended)** **5/5/05 (Amended)**
Injured Employee:	
MDR #:	**M5-05-1594-01**
TWCC #:	
MCMC Certification #:	**5294**

REQUESTED SERVICES:
Review the item in dispute regarding 99212-office visits, 97150-group therapy, 97035-ultrasound, 97110-therapeutic exercises, 97124-massage therapy, 97112-neuromuscular re-education, 97116-gait training, 97032-electrical stimulation, E1399-miscellaneous dme, 98940-chiropractic manipulative treatment (spinal 1-2 regions). Denied by carrier for medical necessity with "U" codes.

Date of service 03/03/2004-05/07/2004

DECISION: PARTIAL

MCMC llc (MCMC) is an Independent Review Organization (IRO) that has been selected by The Texas Workers' Compensation Commission (TWCC) to render a recommendation regarding the medical necessity of the above disputed service.

Please be advised that a MCMC Physician Advisor has determined that your request for an M5 Retrospective Medical Dispute Resolution on 3/9/05, concerning the medical necessity of the above referenced requested service, hereby finds the following:

A course of active care to include dates of service 4/30/04 through 5/7/04 is certified as medically necessary. All other dates of service are not certified as medically necessary.

CLINICAL HISTORY:
Records indicate that the above captioned individual allegedly sustained a work related injury during the course of his normal employment on ___. The history reveals that the above captioned individual fell eight feet from a ladder, sustaining injuries to his neck, right shoulder, lower back, and bilateral knees. MRI of the cervical spine dated 09/18/2002 revealed a disc protrusion at C6/C7. Bilateral knee MRI's dated

09/20/2002 revealed internal derangement of both knees to include meniscal tears. Electrodiagnostic testing dated 06/05/2003 demonstrated a left L5/S1 radiculopathy. The injured individual has undergone surgeries to include right shoulder dated 01/20/2003, right knee dated 11/20/2003 and left knee dated 01/16/2004. An exhaustive course of passive and active care is reflected in the documentation to include pre- and post-surgical rehabilitation and at least two courses of work hardening. The injured individual has also been treated with medication management and injections.

RATIONALE:
This injured individual has undergone an exhaustive course of rehabilitation both prior and subsequent to multiple surgeries and injection therapy. The medical necessity of the services in question is determined based on whether or not substantial progress was documented. The injured individual underwent knee surgery on 1/16/04 and, according to the documentation, passive care began on 1/30/04. The next progress note dated 3/24/04 does not demonstrate that the injured individual was realizing significant therapeutic gain in response to the attended passive care. Ranges of motion remained more or less static and subjective pain levels either remained the same or decreased minimally. Given the lack of demonstrable therapeutic benefit, only the initial four weeks of passive care would be certified as medically necessary. Therefore, the course of treatment from 3/3/04 and forward, except as noted below, is not certified as medically necessary.

A functional capacity assessment, dated 4/14/04, demonstrated functional deficits and a psychological assessment demonstrated psychosocial issues. A trial of active care and group therapy to include the codes listed above would be certified as medically necessary beginning 4/21/04. Despite the fact that the injured individual had previously completed a work hardening program in 2003, given the additional surgery dated 1/16/04, a course of active care to include the services mentioned above would be certified as medically necessary beginning on 4/21/04 through the last disputed date of service, 5/7/04.

RECORDS REVIEWED:
- TWCC Notification of IRO Assignment dated 3/9/05
- TWCC MR-117 3/9/05
- TWCC-60
- Texas Mutual: Explanation of Benefits
- Bose Consulting: Position Statement (undated)
- Houston Medical Imaging reports: MRI of Left Knee dated 9/20/02; MRI of Right Knee dated 9/20/02; MRI of the Cervical Spine dated 9/18/02; MRI of the Thoracic Spine dated 9/18/02; MRI of the Left Shoulder dated 9/20/02; MRI of the Right Shoulder dated 9/20/02; MRI of the Right Elbow dated 9/19/02; Xrays of Cervical, Thoracic, Lumbar and Shoulder dated 8/23/02; MRI of the Left Elbow dated 9/19/02
- River Oaks Imaging and Diagnostic reports: Lumbar Spine Myelogram and Postmyelogram Lumbar CT dated 6/18/03
- Downtown Plaza Imaging Center reports: Discogram, Post Discogram CT Scan of the full Lumbar Spine dated 9/7/04; Xray Chest and lumbar spine series dated 9/7/04; Intradiscal Marcaine and Steroid Injection dated 9/7/04;
- North Houston Imaging Center reports: MRI of Right Shoulder dated 10/2/03; MRI Right Shoulder dated 10/2/03
- Pain and Recovery Clinic East: Functional Capacity Assessment dated 4/14/04; 8/14/03; Work Hardening Evaluation dated 8/21/03; Initial Evaluation dated 10/7/03
- Lone Star Orthopedics: Orthopedic Report dated 6/5/03 to 8/11/04
- Texas Ambulatory Surgical Center: Operative Reports dated 12/10/03, 10/22/03, 9/10/03

- Texas Anesthesia Back Pain Center, MD, PA: History and Physical dated 7/16/03
- Memorial Surgical Center: Operative Report dated 1/20/03
- Denise Turboff: Work Hardening Assessment dated 4/1/04
- Charles Tuen, MD: Electrodiagnostic Test Interpretation dated 6/11/03
- Pain and Recovery Clinic of Houston: Post Surgical Evaluation dated 1/29/04; Progress and Procedure Notes (including Work Hardening) dated 7/9/03 to 3/24/04

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

5th day of May 2005.

Signature of IRO Employee: _____

Printed Name of IRO Employee:_____