

MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION

Retrospective Medical Necessity Dispute

PART I: GENERAL INFORMATION

Type of Requestor: (X) HCP () IE () IC	Response Timely Filed? (X) Yes () No
Requestor's Name and Address Metro Health Resources 3500 Oak Lawn Suite 380 Dallas, Texas 75219	MDR Tracking No.: M5-05-2615-01
	TWCC No.:
	Injured Employee's Name:
Respondent's Name and Address Box 19	Date of Injury:
	Employer's Name:
	Insurance Carrier's No.:

PART II: SUMMARY OF DISPUTE AND FINDINGS

Dates of Service		CPT Code(s) or Description	Did Requestor Prevail?
From	To		
06-02-04	12-16-04	99211, 99212 and 99213 (one unit of office visit code(s) per dates 6-2-04, 6-3-04, 6-4-04, 6-9-04, 6-10-04, 6-16-04 and 12-16-04 were found to be medically necessary)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
06-03-04	06-10-04	97140, 97110, 95831 and 95851	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
06-02-04	12-16-04	99211, 99212, 99213, 97140, 97110, 95831, 95851, 64450, 97530, 28035, 64722 and 97112 (denied for medical necessity with the exception of the specifically approved above)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

PART III: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The Division has reviewed the enclosed IRO decision and determined that the requestor **did not** prevail on the **majority** of disputed medical necessity issues. The amount due from the carrier for the medical necessity issues equals **\$1,403.00**.

Dates of service 10-18-04, 10-21-04, 12-09-04, 01-05-05, 01-10-05, 01-19-05, 01-20-05 and 01-27-05 were withdrawn by the requestor on 07-06-05 and will not be a part of the review.

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 07-07-05, 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.

In regard to CPT code 11042 date of service 08-10-04 the requestor submitted an EOB on 08-26-05 that revealed the charge to be paid in full. The requestor was contacted and it was verified that no payment had been received. Reimbursement is recommended in the amount of **\$106.13**.

CPT code 99213 date of service 08-17-04 denied with denial code "D" (duplicate). Since neither party submitted a copy of the original EOB the review will be per Rule 134.202. Reimbursement is recommended in the amount of **\$68.24**.

Review of CPT code 99213 date of service 09-17-04 revealed that neither party submitted a copy of an EOB. Per Rule 133.304(k)(1)(A) the requestor did not provide a copy of a HCFA as proof of billing. No reimbursement recommended.

Review of CPT code 97530 (2 units) date of service 09-08-04 revealed that neither party submitted a copy of an EOB. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for an EOB. Reimbursement is recommended in the amount of **\$75.15**.

CPT code 97110 (1 unit) date of service 09-29-04 denied with denial code "45" (charges exceed your contracted/legislated fee arrangement). The carrier made a payment of \$27.74. The requestor provided proof that a contract did not exist, however, 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 all of the Commission requirements for proper documentation. No additional reimbursement is recommended.

CPT code 97140-GP (4 units) dates of service 09-09-04, 09-15-04, 09-17-04 and 10-01-04 denied with denial code "N" (no explanation of denial code given by carrier). Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation for review that supports the services. The carrier has made a payment of \$38.40. Additional reimbursement is recommended in the amount of **\$98.12 (\$136.52 due minus carrier payment of \$38.40)**.

CPT code 99212 (5 DOS) dates of service 09-09-04, 09-15-04, 09-17-04, 09-22-04 and 10-01-04 denied with denial code "N" (no explanation of denial code given by carrier). Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation for review that supports the services. The carrier has made a payment of \$137.80. Additional reimbursement is recommended in the amount of **\$107.15 (\$244.95 due minus carrier payment of \$137.80)**.

CPT code 97112-GP (5 DOS) (5 units) dates of service 09-09-04, 09-15-04, 09-17-04, 09-22-04 and 10-01-04 denied with denial code "N" (no explanation of denial code given by carrier). Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation for review that supports the services. The carrier has made a payment of \$41.56. Additional reimbursement is recommended in the amount of **\$143.69 (\$185.25 due minus carrier payment of \$41.56)**.

CPT code 97530 (4 DOS) (8 units) dates of service 09-09-04, 09-15-04, 09-17-04 and 09-22-04 denied with denial code "N" (no explanation of denial code given by carrier). Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation for review that supports the services. The carrier has not made a payment. Additional reimbursement is recommended in the amount of **\$300.60 (\$75.15 billed X 4 DOS)**.

CPT code 97110 (5 DOS) (10 units) dates of service 09-09-04, 09-15-04, 09-17-04, 09-22-04 and 10-01-04 denied with denial code "N" (no explanation of denial code given by carrier). Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation for review that supports the services. The carrier has made a payment of \$83.24. Additional reimbursement is recommended in the amount of **\$286.66 (\$369.90 due minus carrier payment of \$83.24)**.

CPT code 97150 dates of service 09-15-04 and 09-22-04 denied with denial code "N" (no explanation of denial code given by carrier). Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation for review that supports the services. The carrier has made a payment of \$25.42. Additional reimbursement is recommended in the amount of **\$19.78 (\$45.20 due minus carrier payment of \$25.42)**.

Review of CPT code 97010 date of service 09-29-04 revealed that neither party submitted a copy of an EOB. Per Rule 133.307(e)(2)(B) the requestor provided convincing evidence of carrier receipt of the providers request for an EOB. Per the 2002 Medical Fee Guideline code 97010 is a bundled code and considered an integral part of a therapeutic procedure(s). Regardless of whether it is billed alone or in conjunction with another therapy code, additional payment will not be made. No reimbursement recommended.

CPT code 97150 dates of service 10-01-04 and 10-14-04 denied with denial code "S" (supplemental payment). The carrier has made a payment of \$25.42. Additional reimbursement is recommended in the amount of **\$19.78 (\$45.20 due minus carrier payment of \$25.42)**.

CPT code 97032 date of service 10-01-04 denied with denial code "N" (no explanation of denial code given by carrier). Per Rule 133.307(g)(3)(A-F) the requestor submitted documentation for review that supports the services. The carrier has made a payment of \$11.36. Additional reimbursement is recommended in the amount of **\$8.84 (\$20.20 due minus carrier payment of \$11.36)**.

CPT code 99212 date of service 10-14-04 denied with denial code "S" (supplemental payment). The carrier has made a payment of \$27.56. Additional reimbursement is recommended in the amount of **\$21.43 (\$48.99 due minus carrier payment of \$27.56)**.

CPT code 97112 date of service 10-14-04 denied with denial code "S" (supplemental payment). The carrier has made a payment of \$20.78. Additional reimbursement is recommended in the amount of **\$16.16 (\$36.94 billed minus carrier payment of \$20.78)**.

CPT code 97110 (2 units) date of service 10-14-04 denied with denial code "S" (supplemental payment). The carrier has made a payment of \$41.62. Additional reimbursement is recommended in the amount of **\$32.36 (\$73.98 due minus carrier payment of \$41.62)**.

CPT code 97032 date of service 10-14-04 denied with denial code "S" (supplemental payment). The carrier has made a payment of \$11.36. Additional reimbursement is recommended in the amount of **\$8.84 (\$20.20 due minus carrier payment of \$11.36)**.

PART IV: COMMISSION DECISION

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is **not** entitled to a refund of the paid IRO fee. The Division hereby **ORDERS** the insurance carrier to remit the appropriate amount for the services in dispute totaling \$2,715.93 consistent with the applicable fee guidelines, plus all accrued interest due at the time of payment, to the Requestor within 20-days of receipt of this Order.

Findings and Decision by:

		08-30-05
_____ Authorized Signature	_____ Medical Dispute Officer	_____ Date of Findings and Decision
Order by:		
	_____ Associate Director	_____ 08-30-05
_____ Authorized Signature	_____ Medical Review Division	_____ Date of Order

PART V: INSURANCE CARRIER DELIVERY CERTIFICATION

I hereby verify that I received a copy of this Decision in the Austin Representative's box.

Signature of Insurance Carrier: _____ Date: _____

PART VI: YOUR RIGHT TO REQUEST A HEARING

If you are unhappy with all or part of this decision, you have the right to appeal the decision. Those who wish to appeal decisions that were issued during the month of August 2005, should be aware of changes to the appeals process which take effect September 1, 2005.

House Bill 7, recently enacted by the 79th Texas Legislature, provides that an appeal of a medical dispute resolution order that is not pending for a hearing at the State Office of Administrative Hearings (SOAH) on or before August 31, 2005 is not entitled to a SOAH hearing. This means that the usual 20-day window to appeal to SOAH, found in Commission Rule 148.3, will be shortened for some parties during this transition phase. If you wish to seek an appeal of this medical dispute resolution order to SOAH, you are encouraged to have your request for a hearing to the Commission as early as possible to allow sufficient time for the Commission to submit your request to SOAH for docketing. A request for a SOAH hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas 78744 or faxed to 512-804-4011. A copy of this Decision should be attached to the request.

Beginning September 1, 2005, appeals of medical dispute resolution orders are procedurally made directly to a district court in Travis County [see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable.

Si prefiere hablar con una persona in español acerca de ésta correspondencia, favor de llamar a 512-804-4812.

Parker Healthcare Management Organization, Inc.

3719 N. Beltline Road, Irving, TX 75038

972.906.0603 972.255.9712 (fax)

Certificate # 5301

August 16, 2005

ATTN: Program Administrator

Texas Workers Compensation Commission

Medical Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100

Austin, TX 78744

Delivered by fax: 512.804.4868

Notice of Determination

MDR TRACKING NUMBER: M5-05-2615-01

RE: Independent review for ____

The independent review for the patient named above has been completed.

- Parker Healthcare Management received notification of independent review on 7.6.05.
- Faxed request for provider records made on 7.6.05.
- The case was assigned to a reviewer on 7.25.05.
- The reviewer rendered a determination on 8.12.05.
- The Notice of Determination was sent on 8.16.05.

The findings of the independent review are as follows:

Questions for Review

The clinical questions to be resolved are the necessity of the following. Office visits (99211)(99212)(99213), manual therapy technique (97140), therapeutic exercise (97110), muscle testing-extremity (95831), ROM extremity or trunk (95851), Nerve block other peripheral nerve (64450), Therapeutic activities (97530), decompression of tibial nerve (28035), relieve pressure of nerves (64722) and neuromuscular re-education (97112). The dates in dispute are listed from 6-2-04 through the date of 12-16-04. The date of injury is listed as ____.

Determination

PHMO, Inc. has performed an independent review of the proposed care to determine if the adverse determination was appropriate. After review of all medical records received from both parties involved, the PHMO, Inc. physician reviewer has determined to **overturn the denial** on one unit of office visit code(s) (99211/99212/99213) per date: 6.2.04, 6.3.04, 6.4.04, 6.9.04, 6.10.04, 6.16.04, 12.16.04.

Also, **overturn the denial** on CPT codes 97140, 97110, 95831, 95851 for the period between 6.2.04-6.16.04. These dates were initially denied by the carrier with denial code "v".

PHMO, Inc. physician reviewer has determined to **uphold the denial** of all services not specifically approved hereinbefore.

Summary of Clinical History

The patient was injured as a result of a work related injury while working for _____. The injury occurred when an electronic jack ran over his right foot. This caused injuries to the right foot and the right knee. The date of the injury was _____.

Clinical Rationale

The patient apparently had decompressive surgeries in July of 2004 (7-15-04) on the anterior tarsal and tarsal tunnel regions, relieving pressure over the deep peroneal and tibial nerves in each of the two tunnels. The treating doctor felt that post surgical rehabilitation was indicated.

In October 2004, a surgical procedure on the right knee was performed. The time span between the two surgeries is likely the reason for the extended period of rehabilitation and therapy in dispute. The time period in dispute is approximately six months long. This is longer than what is customary for non-complicated post ankle surgery rehab. Since there are two surgeries three months apart the rehabilitation likely carried over due to the two injuries in succession.

Documentation from the designated doctor on the date of December 8, 2004 reveals slow healing, exacerbations and a lack of appropriate healing from the surgical procedures provided, mainly the ankle. The patient at this point had an 8/10 on the VAS and continued symptoms. Sensory examination was normal and his gait was documented as being altered. This doctor felt that MMI would not be reached until all other invasive and medicinal measures have been taken.

On 12-8-04, John Wey, MD reveals that the patient still had the same findings and more symptoms around the ankle. This is after the time in which the therapy in dispute was provided. Dr. Wey also requests a follow up electro-diagnostic study for further evaluation of nerve damage. This was after the first NCV/EMG was done by Dr. High. On 10-13-04, Dr. Wey's notes reveal that conservative and rehabilitative therapy has not given the patient any relief.

An NCV/EMG study was performed on 5-14-04 by a William High, MD. This study determined the whole setting for the ankle surgery and need for rehabilitation. There are several questionable factors in regards to this study. The performing doctor diagnoses a deep peroneal nerve lesion at the level of the ankle or between the knee and the ankle. Surgical decompression however was performed at the foot according to the surgical report. There is documentation of denervation potentials in the extensor digitorum brevis as well as the anterior tibialis. Some spontaneous active potentials were noted and some related to motor unit activity. The anterior tibialis is proximal to the foot and pathology at the level of the anterior tibialis would be more indicative of a proximal pathology such as a root lesion and not entrapment of the nerve at the level of the foot as listed in the surgical report. Other peroneal nerve innervated muscle and other muscles related to lower root levels for comparison should have been performed in order to differentially diagnose different lesions. Any peroneal nerve lesion distal to the fibular head are extremely uncommon. The conduction across the fibular head is not listed as pathologic.

The examining doctor also states that the distal muscle, the abductor hallucis had active denervation, but there are no other proximal muscles, innervated by the tibial nerve listed as being performed. An example would be the gastrocnemius muscle. It is reported that the leg is otherwise normal, but the muscles that might be tested that are normal are not listed. This leads to the question if other muscles were even tested. The examining doctor also reveals the paraspinals are normal, but the literature demonstrates that very commonly these muscle will not show denervation when a root lesion is present, especially if any time has lapsed since the injury.

As a result, a muscle distal and proximal to the anticipated site of a lesion must be done and documented in order to have accurate findings. Another factor is that the performing doctor reveals that the H-waves could not be elicited bilaterally due to noise artifact. This is unusual and is only seen in significant conditions of high emf or environmental factors. If the H waves have to much noise to elicit I would highly question the ability to do an accurate needle EMG and sensory studies on the NCV. These studies are even more susceptible to noise artifact than the H-waves. I am assuming the factors surrounding the study that could distort the findings on the H-wave study did not change between other studies or else the H-waves could have been repeated and reported.

Also, it is unusual to see the peroneal motor nerve conduction study as normal, but the peroneal F wave being absent. This in all probability does not indicate a distal lesion, but is more likely to explain a proximal root lesion. The greater probability of this finding is due to poor technique while performing the study. I would understand if the F waves were prolonged, were not frequent or pathologically asymmetric. This is not the case, it is listed as not being present, but the motor study or the M wave can be generated. This is highly unlikely as being the case in a peripheral entrapment.

Having said this, the validity of the electro-diagnostic study is questionable. This is important to note because the patient did not get better with decompressive surgery at the ankle, according to the orthopedist, and Dr. Wey even recommended a follow up study. This leads me to believe that he was wondering what other causes might be a factor in regards to the patient's symptoms.

The notes that were provided for review by the rendering doctor do not support the provided care beyond a trial period of care. It is anticipated that therapy would be necessary in this situation in the initial post surgical scenario; however, the rendering doctor's notes do not demonstrate any significant objective improvement from the provided therapy. As a result a continuation of care beyond the trial period is not supported in the documentation.

The notes say the patient is "improving slightly," but does not offer subjective or objective information to support that. There is not a visual analog scale. There are no objective range of motion findings or strength findings or any other reliable outcomes assessments done during the time period in question that support continued care as being necessary. There were some studies done prior to the time period in question, but not during the time in question.

There are also various lapses in therapy and a lack of consistency in treatment provided. It is understood that the patient had other procedures going on during the time period in question which would alter attendance; however, the therapy overall not consistent. As a result of no documented outcomes that are observable and favorable in regards to recovery it is hard to see that a continuation of the disputed therapy beyond a trial period had any impact in regards to the patient's recovery.

At the time period that the therapy in question ended, the orthopedist listed the patient at an 8/10 on the VAS and reported that the patient actually had worse findings in the ankle. This is after all the aforementioned therapy, surgery and other medicinal treatment.

I also question the need for peripheral nerve release especially of the peroneal nerve in the foot. The EDS studies had documented noise artifact, the interpretation seems unsupportable and the peroneal nerve was not even listed as entrapped in the foot, but rather it was possibly entrapped between the ankle and the knee, which is very unusual. All distal motor and sensory latencies were intact. There were no sensory disturbances listed in the calcaneal or the plantar distributions on clinical examination and there was not a positive tinel's sign at the tarsal tunnel found or documented. There were normal sensory studies on the NCV and there is no documentation that plantar NCV studies either medially or laterally were done which would help confirm the diagnosis of tarsal tunnel. The compound muscle action potential distal onset latency value of the tibial nerve was also listed as being normal. The amplitudes were listed as being pathologically reduced in the tibial nerve; however, there are no numerical values listed to support this finding. There are no listings of muscles proximal to the tarsal tunnel and then distal to confirm that any distal denervation would be as a result of a peripheral entrapment verses a root lesion. There were only distal foot muscles tested and no listing of muscle proximal to the tarsal tunnel to compare to.

The lower level office visits would be necessary because the treating doctor has the obligation to monitor the patient during time periods in which other therapies are being provided or during the time in which the patient has not officially been put at MMI. A trial period of four weeks of post surgical rehabilitative care for the ankle is adequate. This would include four weeks of manual therapy, therapeutic exercise and therapeutic activities for a total of six visits, or the therapy provided during June of 2004. There is a gap in therapy after this time period until the middle of July.

Clinical Criteria, Utilization Guidelines or other material referenced

- *Occupational Medicine Practice Guidelines*, Second Edition.
- *The Medical Disability Advisor*, Presley Reed M
- *A Doctors Guide to Record Keeping*, Utilization Management and Review, Gregg Fisher
- *AAEM Guidelines* regarding Electro-Diagnostic Studies.

The reviewer for this case is a doctor of chiropractic peer matched with the provider that rendered the care in dispute. The reviewer is engaged in the practice of chiropractic on a full-time basis.

The review was performed in accordance with Texas Insurance Code §21.58C and the rules of the Texas Workers Compensation Commission. In accordance with the act and the rules, the review is listed on the TWCC's list of approved providers, or has a temporary exemption. The review includes the determination and the clinical rationale to support the determination. Specific utilization review criteria or other treatment guidelines used in this review are referenced.

The reviewer signed a certification attesting that no known conflicts-of-interest exist between the reviewer and any of the providers or other parties associated with this case. The reviewer also attests that the review was performed without any bias for or against the patient, carrier, or other parties associated with this case.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the Decision and has a right to request a hearing. A request for hearing must be in writing and it must be received by the TWCC Chief Clerk of Proceedings/Appeals Clerk within 20 (twenty) days of your receipt of this decision (28 Tex. Admin. Code § 148.3). This Decision is deemed received by you 5 (five) days after it was mailed and the first working day after the date this Decision was placed in the carrier representative's box (28 Tex. Admin. Code § 102.5 (d)). A request for hearing should be sent to: Chief Clerk of Proceeding/Appeals , P.O. Box 17787, Austin, Texas 78744 or faxed to (512) 804-4011. A copy of this Decision should be attached to the request. The party appealing the Division's Decision shall deliver a copy of this written request for a hearing to the opposing party involved in the dispute.

I hereby verify that a copy of this Findings and Decision was faxed to TWCC, Medical Dispute Resolution department applicable to Commission Rule 102.5 this 16th day of August, 2005. The TWCC Medical Dispute Resolution department will forward the determination to all parties involved in the case including the requestor, respondent and the injured worker. Per Commission Rule 102.5(d), the date received is deemed to be 5 (five) days from the date mailed and the first working day after the date this Decision was placed in the carrier representative's box.

Meredith Thomas
Administrator
Parker Healthcare Management Organization, Inc.

CC: Requestor
Respondent
Patient