

**SOAH DOCKET NO. 453-05-3086.M5  
TWCC MR NO. M5-04-3871-01**

**WEST BELT MEDICAL, PLLC**  
**Petitioner**

**V.**

**THE TRAVELERS COMPANIES,**  
**Respondent**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**DECISION AND ORDER**

**I. INTRODUCTION**

West Belt Medical, PLLC (Provider) seeks reimbursement for certain medical services that it furnished to \_\_\_\_\_ (Claimant). The Travelers Companies (Carrier) denied reimbursement for those services by claiming that they were not medically necessary.

An independent review organization (IRO) partially agreed with the Carrier and found that some of those services were not medically necessary. However, the IRO failed to review other services that the Carrier had claimed were not medically necessary and for which it denied reimbursement. The Texas Workers' Compensation Commission (TWCC) Medical Review Division (MRD) denied reimbursement for one category of those other services—one-on-one therapeutic services—finding that the Provider had failed to provide adequate documentation to show that level of services was necessary.

The only significant disputed issue is whether any of the services for which the Provider seeks reimbursement were medically necessary due to the compensable injury. The amount in controversy is \$5,709.85. As set out below, the Administrative Law Judge (ALJ) finds that the disputed services were not medically necessary and denies the Provider's request for reimbursement.

## II. FINDINGS OF FACT

1. On \_\_\_\_\_, the Claimant sustained a work-related injury to his left wrist, lower back, neck, and right knee as a result of his work activities (Compensable Injury).
2. On the date of injury, the Claimant's employer was Grocery Supply, and the Carrier was its workers' compensation insurance carrier.
3. From the eleventh though at least the seventeenth month after his Compensable Injury, the Claimant claimed still to have pain resulting from that injury.
4. To reduce the Claimant's claimed level of pain from his compensable injury, the Provider furnished the following medical services (Disputed Services) to the Claimant, on the dates and with the Current Procedural Terminology (CPT) codes and maximum allowable reimbursements (MARs), shown below:

CPT	SERVICE DESCRIPTION	MAR	DATES	TOTAL
97035	Ultrasound	\$15.56	9/3 and 9/12/2003	\$31.12
97110	One-on-one therapeutic exercises	\$245.00	9/3, 9/12, and 9/29/2003	\$735.00
97110	One-on-one therapeutic exercises	\$210.00	9/24/2003	\$210.00
97110	One-on-one therapeutic exercises	\$175.00	10/7, 10/24, 10/28/2003	\$525.00
97110	One-on-one therapeutic exercises	\$179.56	11/11, and 11/20/03, and 2/18/2004	\$538.68
97110	One-on-one therapeutic exercises	\$215.47	11/25, 12/4, 12/9, and 12/23/2003  1/6, 1/21, 2/6, 2/27, and 3/10/2004	\$1,939.23

97140	Manual therapy	\$33.91	9/3, 9/12, 9/24, 9/29, 10/7, 10/24, 10/24, 10/28, 11/4, 11/11, and 11/20/2003	\$373.01
99213	office visit; established outpatient	\$60.00	9/3, 9/12, 9/24, 9/29, 10/24, 10/28, 11/4/2003	\$420.00
99213	office visit; established outpatient	\$65.21	11/11, 11/20, 11/25, 12/4, 12/9, and 12/23/2003  1/6, 1/15, 1/21, 2/6, and 2/18/2004	\$717.31
99213	office visit; established outpatient	\$67.25	2/27 and 3/10/2004	\$134.50
99214	office visit; established patient; detailed	\$71.00	10/7/2003	\$71.00
G0283	Unattended electrical stimulation	\$15.00	9/24/2003	\$15.00
TOTAL				\$5,709.85

5. The Claimant's claimed level of pain from his compensable injuries did not significantly decline and for certain body parts increased from September 3, 2003, through March 10, 2004.
6. The Provider timely sought reimbursement from the Carrier for the Disputed Services.
7. The Carrier timely sent an explanation of benefit (EOB) to the Provider denying the requested reimbursement and contending that the Disputed Services were not reasonably medically necessary due to the Claimant's Compensable Injury.
8. The Provider timely filed a request for medical dispute resolution with the TWCC.
9. The IRO reviewed the medical dispute and found that the 97110 and 99213 services from February 18 through March 10, 2004, were not medically necessary due to the Compensable Injury.

10. The IRO failed to review the medical necessity of the other disputed services that Provider furnished to the Claimant from September 3, 2003, through March 10, 2004.
11. Based on the IRO's findings, MRD found that the Provider was not owed a reimbursement for the services that the IRO reviewed.
12. The MRD further found that the 97110 services from October 28, 2003, through February 27, 2004, were not were not sufficiently documented to show that the Compensable Injury warranted one-on-one treatment and denied reimbursement for those services.
13. After the IRO decision and MRD order were issued, the Provider asked for a contested-case hearing by a State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) concerning the Disputed Services.
14. Required notice of a contested-case hearing concerning the dispute was mailed to the Carrier and the Provider.
15. On June 9, 2005, SOAH ALJ William G. Newchurch held a contested-case hearing concerning the dispute at the William P. Clements Office Building, Fourth Floor, 300 West 15th Street, Austin, Texas. The hearing concluded and the record closed on that same day.
16. The Carrier appeared at the hearing through its attorney, Patrick Groves.
17. The Provider appeared at the hearing through its attorney, Michael L. Sprain.

### **III. CONCLUSIONS OF LAW**

1. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a decision and order, pursuant to TEX. LABOR CODE ANN. (Labor Code) §§ 402.073(b) and 413.031(k) (West 2004) and TEX. GOV'T CODE ANN. (Gov't Code) ch. 2003 (West 2004).
2. Adequate and timely notice of the hearing was provided in accordance with Gov't Code §§ 2001.051 and 2001.052.
3. Based on the above Findings of Fact and Gov't Code § 2003.050 (a) and (b), 1 TEX. ADMIN. CODE (TAC) § 155.41(b) (2004), and 28 TAC §§ 133.308(v) and 148.21(h) (2004), the Provider has the burden of proof in this case.

4. An employee who sustains a compensable injury is entitled to all health care reasonably required by the nature of the injury as and when needed that cures or relieves the effects naturally resulting from the compensable injury, promotes recovery, or enhances the ability of the employee to return to or retain employment. Labor Code § 408.021 (a).
5. Based on the above Findings of Fact and Conclusions of Law, the Disputed Services were not medically necessary due to the Claimant's Compensable Injury.
6. Based on the above Findings of Fact and Conclusions of Law, the Provider's request for reimbursement should be denied.

**ORDER**

**IT IS ORDERED THAT** the Provider's request for reimbursement for the Disputed Services is denied.

**SIGNED August 8, 2005.**

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**WILLIAM G. NEWCHURCH  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**