

**SOAH DOCKET NO. 453-05-5824.M5  
TWCC MR NO. M5-05-1162-01**

**PAIN & RECOVERY CLINIC,  
Petitioner**

**V.**

**BANKERS STANDARD INSURANCE  
CO.,  
Respondent**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**DECISION AND ORDER**

**I. INTRODUCTION**

Pain & Recovery Clinic (Provider) disputes a decision of an independent review organization (IRO) on behalf of the Texas Workers' Compensation Commission (TWCC) Medical Review Division (MRD) regarding certain medical services for \_\_ (Claimant). The IRO agreed with Bankers Standard Insurance Co. (Carrier) and found that those medical services were not reasonably medically necessary to treat the Claimant's compensable injury.

The only disputed issue is the medically necessity of those services. The amount in dispute is \$6,036.37.

As set out below, the Administrative Law Judge (ALJ) cannot find that the medical services were reasonably medically necessary to treat the compensable injury and denies the Provider's request to be reimbursed for them.

**II. FINDINGS OF FACT**

1. On \_\_, the Claimant sustained a work-related injury to her back as a result of her work activities (compensable injury).
2. On the date of injury, the Claimant's employer was \_\_ and the Carrier was its workers' compensation insurance carrier.
3. As a result of the compensable injury, the Claimant suffered back pain.

4. The Provider furnished medical 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
99212	Office visits, established patient	\$48.03	4/19, 4/21, 4/26, 4/28, 4/30, 5/5, 5/7, 5/17, 5/20, 5/25, 5/28, 7/27, 7/30, 8/10, 8/12 and 8/13/2004	\$768.48
97110	One-on-one therapeutic exercises	\$148.16	3/23, 3/26, 4/6, 4/8, 4/13, 4/16, 4/19, 4/21, 4/26, 4/28, 4/30, 5/17, 5/20, 5/25, 5/28, 6/24, 7/7, 7/19, 7/23, 7/27, 7/30, 8/10, 8/12 and 8/13/2004	\$3,555.84
97110	One-on-one therapeutic exercises	\$111.12	5/5, 5/7, 6/9 6/10 and 6/11/2004.	\$555.6
97112	Neuromuscular reeducation	\$73.50	4/19, 4/21, 4/26, 4/28, 4/30, 5/17, 5/20, 5/25, 5/28, 7/27, 7/30, 8/10, 8/12 and 8/13/2004.	\$1,029
97112	Neuromuscular reeducation	\$36.75	5/5 and 5/7/2004.	\$73.5
97032	Electrical stimulation	\$20.04	4/21/2004.	\$20.04
97140	Manual therapy	\$33.91	4/21/2004.	\$33.91
TOTAL				\$6,036.37

5. In an uncomplicated case, four to six weeks of conservative treatment, like that described above, is reasonable and necessary.
6. The Claimant previously received the same and similar services for four to six weeks shortly after her injury.
7. The services in dispute did not significantly reduce the Claimant's back pain, increase her range of motion, promote her recovery, or allow her to return to work.
8. The Provider timely sought reimbursement from the Carrier for the above medical services.

9. The Carrier timely sent an explanation of benefit (EOB) to the Provider denying the requested reimbursement and asserting that the services were not shown to be medically necessary to treat the compensable injury.
10. The Provider had originally filed but subsequently withdrew its request to be reimbursed for other services provided on March 30 and April 1, 2004.
11. The Provider timely filed a request for medical dispute resolution with the TWCC.
12. The IRO reviewed the medical dispute and found that the medical services were not medically necessary.
13. TWCC's Medical Review Division (MRD) adopted the IRO's decision and denied the Provider's request for reimbursement.
14. The Provider timely asked for a contested-case hearing by a State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ).
15. This case was referred by TWCC and accepted by SOAH for hearing prior to September 1, 2005.
16. Required notice of a contested-case hearing concerning the dispute was mailed to the Carrier and the Provider.
17. On December 5, 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.
18. The Carrier appeared at the hearing through its attorney, Gregory D. Solcher.
19. The Provider appeared at the hearing through its attorney, Annie Basu.

### **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 2005), TEX. GOV'T CODE ANN. (Gov't Code) ch. 2003 (West 2005), and Acts 2005, 79th Leg., ch. 265, § 8.013, eff. Sept. 1, 2005.
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, Gov't Code § 2003.050 (a) and (b), 1 TEX. ADMIN. CODE (TAC) § 155.41(b) (2005), and 28 TAC § 148.14 (2005), 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. The evidence in this case does not show that the services in dispute in this case were reasonably medically necessary to treat the Claimant's compensable injury.
6. Based on the above Findings of Fact and Conclusions of Law, the Provider's request to be reimbursed for the services in dispute in this case should be denied.

**ORDER**

**IT IS ORDERED THAT** the Provider's request to be reimbursed for the services in dispute in this case is denied.

**Signed December 20, 2005.**

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