

MDR Tracking Number: M5-03-0078-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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.

The IRO reviewed chiropractic treatment and diagnostic studies rendered from 10-15-01 to 3-28-02 that were denied based upon “U” or “T”.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

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

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On April 2, 2003, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

Services that were denied with No EOB will be reviewed per *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
10-8-01	95851 97750MT	\$40.00 \$86.00	\$0.00	L	\$36.00 each \$43.00 /body area	CPT code Description Rule 126.9(c)  Medicine GR (I)(E)(3)	According to TWCC records the requestor was the claimant’s initial choice of doctor; therefore, he was the treating doctor.  Documentation supports lumbar range of motion testing, reimbursement of \$36.00 is recommended

							Muscle testing is per body area; therefore, reimbursement of \$43.00 is recommended.
10-11-01	99070	\$6.00 \$8.00	\$0.00	L	DOP	General Instructions GR (IV)	Requestor noted in SOAP note that analgesic balm was supplied for pain control and OTC muscle relaxers for muscle spasm and pain. Reimbursement of \$14.00 is recommended.
11-20-01	95851  97750MT	\$40.00  \$172.00	\$0.00	G  G	\$36.00 each  \$43.00 /body area	Medicine GR (I)(E)(2) (a) and (b)(i)(ii)(iii)  TWCC and the Importance of Proper Coding	On this date the requestor billed for a comprehensive office visit, TWCC-73 report, range of motion testing and muscle testing. Per Medicine GR (I)(E)(2)(b) a physical examination, range of motion and muscle testing are global to an FCE. Therefore, the requestor billed incorrectly by billing components of an FCE separately.  The MAR for an initial FCE is \$500.00. Per Medicine GR (I)(E)(2)(a), the second FCE's MAR is \$200.00. The requestor did not exceed the amount for initial FCE by billing \$352.00. The insurance carrier paid the provider \$118.00. Per MFG, the requestor is due \$222.00.
11-12-01 12-7-01 12-24-01	97750MT	\$129.00	\$43.00	F	\$43.00 /body area	Medicine GR (I)(E)(3)  TWCC and the Importance of Proper Coding	On 11-12-01, 12-7-01 and 12-24-01 muscle testing was the only service billed; the provider was appropriately reimbursed per MFG.
10-23-01	99080	\$21.50	\$0.00	F	\$0.50/pg	Rule 133.106(f)(3)	HCFA indicates 43 pages were copied; therefore, reimbursement of \$21.50 is recommended.

1-24-02	99215 99080-73 95851 97750MT	\$125.00 \$15.00 \$40.00 \$172.00	\$0.00	F F G G	\$103.00 \$15.00 \$36.00 \$43.00/body area	Medicine GR (I)(E)(2)(a)(b) (I)(E)(3) (I)(E)(4)	Per Medicine GR (I)(E)(2)(b) a physical examination, range of motion and muscle testing are global to an FCE. Therefore, the requestor billed incorrectly by billing components of an FCE separately. The MAR for an initial FCE is \$500.00. Per Medicine GR (I)(E)(2)(a), the second and third FCE's MAR is \$200.00. The requestor exceeded this amount by billing \$352.00. Per MFG, the requestor is due \$200.00.
TOTAL		\$1112.50					The requestor is entitled to reimbursement of <b>\$536.50</b> .

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay \$536.50 plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 10/08/01 through 03/28/02 in this dispute.

This Order is hereby issued this 23rd day of July 2003.

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division

**IRO Certificate #4599**

**NOTICE OF INDEPENDENT REVIEW DECISION**

December 7, 2002

**Re: IRO Case # M5-03-0078**

Texas Worker's Compensation Commission:

\_\_\_ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a

claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to \_\_\_ for an independent review. \_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, \_\_\_ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic who is licensed by the State of Texas, and who also is a Certified Strength and Conditioning Specialist. He or she has signed a certification statement attesting 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 referral to \_\_\_ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the \_\_\_ reviewer who reviewed this case, based on the medical records provided, is as follows:

#### History

The patient is a now 41-year-old male was injured \_\_\_ when he slipped and fell between concrete and the dock on a trailer, hitting his upper right leg, buttock and low back. He was treated with medication and physical therapy.

#### Requested Service

Chiropractic treatment 10/8/01 to 3/28/02

#### Decision

I agree with the carrier's decision to deny the requested treatment.

#### Rationale

These services were not medically necessary to restore normal function or return the patient to normal work status. In my opinion, the supervised therapeutic exercise program was initiated too early in the treatment program and caused an iatrogenic nocebo effect. Iatrogenic nocebo effects are documented in medical literature and often occur over utilization or inappropriate medical treatment persists. The therapeutic exercises were initiated on the patient's first visit while his pain was six on a scale of 0 to 10. It was also noted on this visit that the patient had moderate myospasm and moderate pain in the facet joints of the lumbar spine.

These objective findings and subjective complaints should contraindicate the type of therapeutic exercises that were done except possible passive stretching to help relieve the myospasms. It was noted that a flexion distraction technique was used on the lumbar spine. In my experience this technique is contraindicated in a person of this patient's age presenting with muscle spasms and a diagnosed lumbar disk injury. It was noted on 10/29/02 that his pain was seven on a scale of 0-10 after his treatment. It is documented with each treatment that there is either no change in how he feels or that he feels worse especially after treatment. Proper protocol should have included treatment to reduce pain first of all and not try to increase strength, endurance, stamina, balance and proprioception until his pain symptomatology was minimal in nature. Exercises such as lunges, wall squats, bouncing, crunches and utilization of body blades, dumbbells, torso tracks and wobble boards, at this stage of treatment were unnecessary. The Dynation and DeLorme tests were also unnecessary because the documentation fails to support their necessity. OTC muscle relaxers and analgesic balms would be of little benefit in this case.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Sincerely,