

MDR Tracking Number: M5-03-0153-01

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 Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

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

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. There are unresolved fee issues.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
8/27/01	99213-MP 97010 97032 97035 97012	\$ 50.00 \$ 20.00 \$ 25.00 \$ 25.00 \$ 20.00	0.00	No EOB	\$ 48.00 \$ 11.00 \$22.00 ea 15 min \$22.00 ea 15 min \$ 20.00	96 MFG Med GR I A 10 a; I B 1 b	S.O.A.P notes support services rendered for 99213-MP, 97010, and 97032. Recommend reimbursement of \$48.00 + \$11.00 + \$22.00 = \$81.00
8/28/01	76856TC 76800 76536 76800TCLT 76856TC 76800TC 76536TCRT 76800TCLT	\$118.00 \$154.00 \$118.00 \$154.00 \$118.00 \$154.00 \$118.00 \$154.00	0.00	U	\$ 84.00 \$188.00 \$124.00 \$101.00 \$ 84.00 \$101.00 \$ 67.00 \$101.00	IRO decision	The IRO determined that the echo exams were not medically necessary; therefore, no reimbursement recommended.
8/28/01	95925-TC (6) 95925-TC (6)  95900-TC (4) 95900-TC (4)  95904-TC (4)	\$420.00  \$420.00  \$160.00 \$160.00  \$160.00	0.00	A	\$175.00 for one or more nerves    \$ 64.00 ea nerve   \$ 64.00 ea nerve	134.600 (h) (6)  96 MFG Med GR IV B, D	NCV studies do not require preauthorization unless it is a repeat study and the # of nerves tested per CPT code makes the MAR greater than \$350.00 or DOP. Per documentation, these are not repeat studies. Therefore, preauthorization is not required. Reviewed per MFG. The Electrodiagnostic Study Reports of the Upper/Lower Extremities support services as billed. Recommend reimbursement of

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
	95904-TC (2) 95935-TC (2)	\$ 80.00  \$ 80.00			\$ 53.00 ea study		\$40.00 x 14 = \$560.00 + \$175.00 x 70% = \$122.50 + \$53.00 x 70% = 37.10 x 2 = \$74.20 = \$756.70.
8/29/02	97010 97032 97035 97012	\$ 20.00 \$ 25.00 \$ 25.00 \$ 20.00	0.00	F	\$ 11.00 \$22.00 ea 15 min \$22.00 ea 15 min \$ 20.00	96MFG Med GR I A 10	Denied as "F- exclusive use of physical medicine modalities is limited to max of 2 weeks unless doc. is provided to substantiate need for continued use of only these modalities..." S.O.A.P. notes indicate use of physical medicine modalities began 8-27-01; therefore, the time for "exclusive use" has not been reached. S.O.A.P notes support services rendered for 97010 and 97032. Recommend reimbursement of \$11.00 + \$22.00 = \$33.00.
10/2/01	99213MP 97110 x 2	\$ 50.00 \$ 90.00	0.00	No EOB	\$ 48.00 \$35.00 ea 15 min		Since neither party submitted an EOB, review will be per the MFG. S.O.A.P note supports 99213-MP. Recommend reimbursement of \$48.00. See RATIONALE below for 97110.
10/26/01	97110	\$ 45.00	0.00	A	\$35.00 ea 15 min		Documentation submitted did not include preauthorization request or approval for these services. No reimbursement recommended.
12/3/01	99213MP 97110 x 2	\$ 50.00 \$ 90.00	0.00	U	\$ 48.00 \$35.00 ea 15 min	IRO decision	IRO deemed the office visit with manipulation was medically necessary. The IRO deemed the physiotherapy as not medically necessary. Recommend reimbursement of \$ 48.00
12/14/01 1/4/02	99213MP	\$ 50.00	0.00	E	\$ 48.00	124.2	The MRD has no jurisdiction to review services or treatment denied as "E". Per Commission Rule 141.1(a) a Benefit Review Conference may be requested by the claimant or sub-claimant to resolve the compensability issue.
12/28/01 1/7/02 1/11/02 1/15/02 1/18/02 2/1/02	99213MP	\$ 50.00	0.00	U	\$ 48.00	IRO decision	IRO deemed the office visits with manipulations were medically necessary. Recommend reimbursement of \$ 48.00 x 6 = \$288.00
3/7/02	99080	\$109.00	0.00	No EOB	\$.50 per page		Documentation supports a request by the carrier for additional documentation from the provider. Recommend reimbursement of

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
							\$109.00.
TOTAL		\$3,732.00	0.00				The requestor is entitled to reimbursement of <b>\$1,363.70.</b>

**RATIONALE:** Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings 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 (MRD) has reviewed the matters in light of the Commission requirements for proper documentation.

The MRD declines to order payment for CPT code 97110 because the daily notes did not indicate whether the doctor was conducting exclusively one-to-one sessions with the claimant, the notes did not clearly indicate activities that would require a one-on-one therapy session, the notes did not indicate the type of activity/therapy, the notes did not reflect the need for one-on-one supervision and there was no statement of the claimants medical condition or symptoms that would mandate one-on-one supervision for an entire session or over an entire course of treatment.

On this basis, the total amount recommended for reimbursement (\$1,363.70) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay \$1,363,70 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 8-27-01 through 3-7-02 in this dispute.

This Order is hereby issued this 19th day of May 2003.

Dee Z. Torres  
 Medical Dispute Resolution Officer  
 Medical Review Division

DZT/dzt

January 6, 2003

Amended April 8, 2003

David Martinez  
TWCC Medical Dispute Resolution  
4000 IH 35 South, MS 48  
Austin, TX 78704

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IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

\_\_\_ has seen multiple providers, examiners and has received a multitude of diagnostic tests for a number of related and seemingly unrelated conditions. \_\_\_ injured his neck, arm and lower back while attempting to break a fall during the course of his employment on \_\_\_. He presented initially to an ER in the \_\_\_ area where x-rays were taken and found negative for fractures or other acute pathology. He was apparently given an injection of Valium and sent home with a prescription for muscle relaxants. He later presented to \_\_\_, a chiropractor, where history reveals that he had been seen previously for a \_\_\_ back injury. \_\_\_ repeated x-rays previously performed at the ER and began a treatment program of activator adjustments and passive physiotherapy modalities. There appears to have been a series of ultrasound and neurodiagnostic tests performed in the chiropractor's office with data sent to a \_\_\_, neurologist, for interpretation. No written orders or clinical rationale for these tests were provided for review corresponding to these dates of service. In addition, no mention of these tests or procedures was documented in

doctor's notes at these dates of service. \_\_\_ requested pre-authorization for physiotherapy consisting of active r.o.m. along with strength/resistive therapeutic exercises 3x per week for four weeks on 9/5/01. Authorization was granted by \_\_\_ on 9/10/01 for the period between 9/7/01 and 10/10/01. The chiropractor again requested continuation of the same physiotherapy plan for four additional weeks on 10/29/01. The carrier's authorization was granted for active rehab only from 10/31/01 to 113001. There is no documentation showing that the chiropractic office requested pre-authorization for neurodiagnostic testing and echo ultrasonography procedures on 8/27/01 or 8/28/01 other than a CA telephone log suggesting verbal approval for NCV testing only given by \_\_\_ and \_\_\_ of \_\_\_. There is an unsigned request for authorization made by \_\_\_ on 8/15/01 for DSEP and NCV tests only. There are some undated, unsigned, handwritten notes from \_\_\_ indicating that unidentified testing had been approved by \_\_\_ of \_\_\_ on 8/27/01. Multiple SCEP/NCV and Spinal Ultrasound studies are obtained on 8/28/01. Reporting does not reveal the name or qualifications of the examiner. Billing and appeals data suggest that the TLC chiropractic office, \_\_\_, performed the technical component of this diagnostic testing, but no specific documentation of this is provided for review. There is no documentation from \_\_\_ suggesting that he supervised or performed these examinations on this date of service. There is a handwritten note from a \_\_\_, office manager, dated 1/1/02, suggesting that NCV testing will be approved only if determined reasonable and necessary with no mention of echo or ultrasound testing. There are a number of printed, computer-generated, unsigned chiropractic notes, submitted from the dates of service 7/6/01 through 10/8/01 from \_\_\_. A number of mostly unsigned, handwritten SOAP Note forms are also identified from \_\_\_ and \_\_\_, provided from 1029/01 through 3//02 only. These notes suggest that the patient continues to receive activator chiropractic adjustments with occasional passive modalities, largely for a diagnosis of lumbar segmental dysfunction. The patient appears to begin treatment with another chiropractor from 4/15/02 to 7/17/02. A designated doctor evaluation is made with \_\_\_ on 7/18/02 placing the patient at MMI on 7/18/02 with a 5% WP impairment level for chronic lumbar strain secondary to work injury of \_\_\_.

#### DISPUTED SERVICES

Under dispute is the medical necessity for echo exams (diagnostic ultrasound) for the pelvis, spinal canal, head/neck, and extremities. Also under dispute is the medical necessity for office visits, manipulation, and physiotherapy modalities on the following dates: 8/28/01, 12/3/01, 12/28/01, and 1/7/01 through 2/1/02.

#### DECISION

The reviewer both agrees and disagrees with the prior adverse determination.

The reviewer does find medical necessity for office visits with manipulation for the dates in dispute.

The reviewer does not find medical necessity for the echo exams (ultrasonography) performed on 8/28/01.

Physiotherapy performed 12/3/01 and thereafter was not found to be medically necessary.

### BASIS FOR THE DECISION

There does appear to be some limited but reasonable medical necessity for chiropractic office visits with manipulation during these disputed dates of service. There is some support in the chiropractic notes regarding patient improvement and an appropriate corresponding assessment of segmental spine dysfunction is documented.

With regards to Physiotherapy, there is no specific treatment plan, outline of activities, specific therapeutic rationale or specific exercises identified in the documentation. No specific goals, outcomes or progressive benefits of treatment are identified. In addition, no specific functional deficits are addressed corresponding to problem-specific therapeutic applications. Ongoing passive physiotherapy modalities would not be considered medically necessary at this point.

There appears to be very little clinical utility or appropriate rationale supporting the echo (ultrasonography) procedures performed on 8/28/01. There appear to be no specific chiropractic orders or notes concerning the medical necessity of these tests on this date of service. There is no information regarding what role the chiropractor played in providing the technical component of these services. In addition, there is no identification of the technician or examiner performing these procedures, specifically, regarding their qualifications, certifications and record of inter-examiner reliability.

The \_\_\_ has concluded that diagnostic ultrasound has “no proven, clinical utility as a screening, diagnostic or adjunctive tool” for evaluating pain, fluid in the tissues, nerve disorders or other subtle abnormalities adjacent to the spine. Most available literature suggests that this is a current consensus. The American College of Chiropractic Radiology took a similar position in 1995 that was ratified in 1996 by the American Chiropractic Association’s House of Delegates:

*“The application of diagnostic ultrasound in the adult spine in areas such as disc herniation, spinal stenosis and nerve root pathology is inadequately studied and its routine application for diagnostic purposes cannot be supported by the evidence at this time.”*

The American Academy of Neurology Report (1998) on spinal ultrasound for the evaluation of back pain and radicular disorders concluded:

*“Currently, no published peer reviewed literature supports the use of diagnostic ultrasound in the evaluation of patients with back pain or radicular symptoms. The procedure cannot be recommended for use in the clinical evaluation of such patients.”*

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,