

MDR Tracking Number: M5-03-0261-01

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 **or January 1, 2003** 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. The physical therapy sessions were found to be medically necessary. There are also fee issues to be resolved.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
11/30/01 12/3/01 12/17/01 12/19/01	99213-MP	\$ 61.00 x 4 days	0.00	F	\$ 48.00	96 MFG Med GR I B 1 b	“F – not necessary to chg OV w/every PM visit: For MP use 97260.” MFG ground rules state, “The doctor shall use code 99213 with the modifier “MP” when providing an office visit in combination with a manipulation on the day of service.” MFG ground rules do not prohibit office visits on the same day as physical therapy. Daily notes support office visit with manipulation. Recommend reimbursement of \$ 48.00 x 4 = \$192.00
11/30/01 12/3/01	97250 x 2 97035 x 2 97032 x 2 97010 x 1	\$ 45.00 \$ 30.00 \$ 30.00 \$ 22.00	0.00	V	\$ 43.00 \$ 22.00 ea 15min \$ 22.00 ea 15min \$ 11.00	IRO Decision	The IRO determined these services were medically necessary. Therefore, recommend reimbursement of \$43.00 x 2 = \$ 86.00 + \$ 22.00 x 2 = \$ 44.00 + \$ 22.00 x 2 = \$ 44.00 + \$11.00 = \$185.00.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
12/17/01	97035 97032 97122 97010	\$ 30.00 \$ 30.00 \$ 35.00 \$ 22.00	0.00	V	\$ 22.00 ea 15min \$ 22.00 ea 15min \$ 35.00 ea 15min \$ 11.00	IRO Decision	The IRO determined these services were medically necessary. Therefore, recommend reimbursement of \$22.00 + \$ 22.00 + \$ 35.00 + \$11.00 = \$ 90.00.
12/19/01	97250 97035 97032 97122	\$ 45.00 \$ 30.00 \$ 30.00 \$ 35.00	0.00	V	\$ 43.00 \$ 22.00 ea 15min \$ 22.00 ea 15min \$ 35.00 ea 15min	IRO Decision	The IRO determined these services were medically necessary. Therefore, recommend reimbursement of \$43.00 + \$ 22.00 + \$ 22.00 + \$35.00 = \$122.00.
1-4-02 1-9-02	97110 x 2  97035 x 2 97032 x 2 97010 x 2	\$ 98.00 + \$196.00  \$ 30.00 \$ 30.00 \$ 22.00	0.00	V	\$ 35.00 ea 15min  \$ 22.00 ea 15min \$ 22.00 ea 15min \$ 11.00	IRO Decision	The IRO determined these services were medically necessary. Therefore, recommend reimbursement of \$ 70.00 + \$140.00 + \$ 22.00 x 2 = \$ 44.00 + \$ 22.00 x 2 = \$ 44.00 + \$ 11.00 x 2 = \$ 22.00 = \$320.00
TOTAL		\$2,027.00	0.00				The requestor is entitled to reimbursement of <b>\$909.00</b> .

Consequently, the Commission has determined that **the requestor prevailed** on the majority of the medical fees (\$909.00). Therefore, upon receipt of this Order and in accordance with §133.308(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for 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 \$909.00 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 11-30-01 through 1-14-02 in this dispute.

This Order is hereby issued this 20th day of March 2003.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

DZT/dzt

November 26, 2002

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

\_\_\_ sustained a lumbar disc injury while lifting a computer on the job. She first sought treatment from the employer's choice of doctors. These notes were not available to the reviewer. The patient next sought care from \_\_\_ who has managed her case until the present time. His treatment has consisted of spinal manipulation, physical therapy, and exercises that were implemented soon after the patient's first visit. She subsequently had an MRI that demonstrated a disc herniation at L4/5 and also underwent an EMG/NCV study of the lower extremity that was abnormal and indicative of radiculopathy. A series of two epidural steroid injections proved unsuccessful and she was referred for a discogram. This test proved positive at levels L4/5 and L5/S1. \_\_\_ underwent surgery soon after, to include a hemilaminectomy at L3/4 and decompression of the L4 and L5 nerve roots, as well as a discectomy at L4/5 on the left side.

#### DISPUTED SERVICES

Under dispute are physical medicine and therapy rendered from 11/30/01 through 1/14/02.

#### DECISION

The reviewer disagrees with the prior adverse determination.

## BASIS FOR THE DECISION

The reviewer finds it interesting to note that a complaint was filed with the Texas Worker's Compensation Commission compliance and Practices division for a retrospective review and subsequent denial of payment for treatment rendered during the time frame in question. The Commission ruled:

“On 11/30/01 through 1/31/02, the HCP provided medical services to the claimant. Subsequently, medical bills were submitted and then received by the carrier. In response to these bills, on 3/29/02 the carrier stated, “V-unnecessary treatment (with peer review),” and denied payment for the services. This was not a sufficient reason for the action because the peer review was not performed until 4/19/02. Texas Labor Code 408.027(d) and Rule 133.04 require a carrier to provide sufficient reasons for reduction or denial of medical services.”

The treating physician has adequately managed this patient's case and was unduly denied payment for services rendered from November 30, 2001 through January 31, 2002. The services in question were medically necessary and should be paid in accordance with the Medical Fee Guideline. The carrier acted in an egregious manner by listing their reason for denial as having a peer review when none existed at the time of claim submission by the treating physician.

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,