

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.

The IRO review found the following services to be medically necessary: therapeutic exercises from 12-5-01 through 12-19-01, the manipulation from 12-5-01 through 1-23-02, and the myofascial release from 12-5-01 through 1-23-02.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
12-14-01 12-17-01 12-18-01 12-19-01	97110	\$140.00	\$0.00	U	\$35.00/15 min	CPT code descriptor	4 X \$140.00 = \$560.00
	99213MP or 97260						Manipulation was not billed from 12-5-01 through 1-23-02
1-23-02	97250	\$43.00	\$0.00	U	\$43.00		\$43.00
TOTAL		\$593.00					The requestor is entitled to reimbursement of <b>\$593.00</b>

The IRO review found the following services were not medically necessary: manual traction and joint manipulation from 12-5-01 through 1-23-02, therapeutic exercises on and after 12-21-01, manipulation and myofascial release after 1-23-02, TENS unit provided on 12-20-01, the CPT sensory nerve testing on 3-13-02, the temperature gradient study on 12-13-02, the physical performance testing on 12-7-01, 12-27-01 and 1-23-02, the range of motion testing on 12-26-01 and 1-9-02, and all treatments from 3-1-02 through 3-28-02.

The Medical Review Division has reviewed the IRO decision and determined that the total amount recommended for reimbursement does not represent a majority of the medical fees of the disputed healthcare; therefore, the **requestor did not prevail** in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

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.

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 via facsimile 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:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
12-6-01	95851	\$36.00	\$0.00	G	\$36.00	CPT code descriptor	On 12-6-01, the requestor billed 99213MP, 97265, 97250, 97122, 97110, 99090 and 95851. Range of motion testing is not global to any of the services rendered on this date. A review of the submitted documentation did not support billing of this service; therefore, reimbursement is not recommended.
12-7-01 12-27-01 1-23-02 3-5-02	97750MT	\$43.00	\$0.00	G	\$43.00/body area	CPT code descriptor Medicine GR (I)(E)(3)	On 12-7-01, the requestor's HCFA-1500 indicates 97750-MT was the only service billed; therefore, it is not global. On 12-27-01, 1-23-02 and 3-5-02, the requestor billed 99213MP, 97265, 97250, 97122, 97110, 99090 and 97750-MT. Muscle testing is not global to any of the services rendered on these dates. A review of the submitted documentation did not support billing of this service; therefore, reimbursement is not recommended.
1-14-02	97265	\$43.00	\$0.00	G	\$43.00	CPT code descriptor	On 1-14-02 the requestor billed 99213MP, 97265, 97250, 97122, and 97110. 97265 is not global to any of the services rendered on this date. Based upon submitted report reimbursement per <i>Medical Fee Guideline</i> of \$43.00 is recommended.
1-9-02	95851	\$36.00	\$0.00	F	\$36.00	CPT code descriptor	A review of the submitted documentation did not support billing of this service; therefore, reimbursement is not recommended.
TOTAL		\$287.00					The requestor is entitled to reimbursement of <b>\$43.00</b> .

**Order.**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay \$636.00 plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order.

This Order is hereby issued this 2<sup>nd</sup> day of July 2003.

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

March 27, 2003

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
4000 South IH-35, MS 48  
Austin, TX 78704-7491

RE: MDR Tracking #: M5-03-0371-01  
IRO Certificate #: IRO 4326

The \_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. \_\_\_ health care professional has signed a certification statement stating 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 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 this case.

Clinical History

This patient sustained a work-related injury on \_\_\_ when he injured his lumbar spine. An MRI performed on 01/04/02 revealed a 2mm broad disc protrusion in the left paracentral and neural foraminal segment of the L4-5 disc space. From 12/05/01 through 03/28/02 the patient was under the care of a chiropractor.

Requested Service(s)

Manual traction, joint mobilization, therapeutic exercises, manipulation, myofascial release, TENS unit, CPT sensory nerve testing, temperature gradient study, physical performance testing and range of motion studies.

Decision

It is determined that the therapeutic exercises from 12/05/01 through 12/19/01, the manipulation from 12/05/01 through 01/23/02 and the myofascial release from 12/05/01 through 01/23/02 were medically necessary to treat this patient's condition.

It is determined that the manual traction and the joint manipulation from 12/05/01 through 01/23/02, therapeutic exercises performed on and after 12/21/01, manipulation and myofascial release after 01/23/02, the TENS unit provided on 12/20/01, the CPT sensory nerve testing on 03/13/02, the temperature gradient study on 12/13/01, the physical performance testing on 12/07/01, 12/27/01 and 01/23/02, the range of motion studies performed on 12/26/01 and 01/09/02, and all treatments from 03/01/02 through 03/28/02 were not medically necessary to treat this patient's condition.

### Rationale/Basis for Decision

The patient complained of lower back pain, abdominal pain, radiating leg pain, and groin pain throughout his treatment and he was diagnosed with an abdominal hernia on 12/21/01 and tentatively scheduled for surgery. The medical record documentation indicated that the patient was approved for abdominal surgery on 01/07/02 and the records from 03/01/02 indicated that he was scheduled for surgical repair of the abdominal and inguinal hernia on 04/02/02.

The patient underwent an MRI of the lumbar region on 01/04/02 that revealed a subtle 2mm disc protrusion in the left paracentral and neural foraminal segment of the disc space. He also underwent nerve conduction study of the lower extremities on 01/23/02.

The manual traction and joint mobilization performed from 12/05/01 through 01/23/02 was not medically necessary. The patient received spinal manipulation on those dates of service and joint mobilization and traction are components of the manipulation procedure. The addition of joint mobilization and manual traction to spinal manipulation represents duplication of services.

Therapeutic exercises rendered after the date the patient was diagnosed with a surgical hernia were not medically necessary. The patient was diagnosed with a hernia after his visit to the medical doctor and the chiropractor's records from 12/21/01 indicated that the patient had a hernia that required surgical intervention and surgery was scheduled. The use of therapeutic exercises after this point in the care of the patient was not medically necessary, as therapeutic exercises for treatment of the lumbar region involve the creation of increased intra-abdominal pressure, which would not be indicated in the presence of abdominal and inguinal hernias.

The use of manipulation and myofascial release after 01/23/02 was not medically necessary. A review of the patient's pain scores revealed no evidence of quantified pain scores from the first week and a half of care. The chiropractor's records contained pain scores for the patient's back pain, leg pain, abdominal pain, and groin pain for dates of service from 12/17/01 through 03/15/02. The records revealed little change in the patient's condition over the timeframe that the pain scores were collected. Haldeman et al. indicate that an adequate trial of care is defined as a course of two weeks each of different types of manual procedures (4 weeks total), after which, in the absence of documented improvement, manual procedures are no longer indicated. Referenced in Haldeman, S., Chapman-Smith, D., and Persen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993. The patient has had protracted course of care in excess of the parameters delineated by the above-mentioned document and did not demonstrate a favorable response to treatment.

The TENS unit prescribed on 12/20/01 was not medically necessary. Herman et al. conducted a randomized controlled trial to examine the effectiveness of transcutaneous electrical nerve stimulation when added to a standard exercise program for industrial workers with acute low back pain (LBP). Fifty-eight work-related injured patients with LBP of 3-10 weeks duration were randomized into two groups that received actual or placebo stimulation in combination with exercise regimen. The groups were compared on the primary outcome measures of disability, pain, and return to work. No significant differences between the experimental and placebo groups were discovered on any of the measured outcomes. Exercise alone, when continued over 4 weeks, reduced disability and pain scores significantly. Under the experimental conditions of this trial, no additional benefits of TENS were detected when added to an active exercise regimen. Reference: Herman E., Williams R., Stratford P., Fargass-Babjek A., and Trott M., "A randomized controlled trial of transcutaneous electrical nerve stimulation (CODETRON) to determine its benefits in a rehabilitation program for acute occupational low back pain," Spine, 1994 Mar 1; 19(5): 561-8.

The Royal College of General Practitioners indicated that there is inconclusive evidence on the efficacy of TENS in patients with acute low back problems. Reference: Royal College of General Practitioners, Clinical Guidelines for the management of Acute Low Back Pain, Review Date: December 2001.

The CPT sensory nerve testing on 03/13/02 was not medically necessary because of the inaccuracies inherent in such studies and because the patient underwent a nerve conduction study on 01/23/02.

The temperature gradient study on 12/13/01 was not medically necessary. The Mercy Conference, Haldeman, S. et al, Guidelines for Chiropractic Quality Assurance Parameters – Proceedings of the Mercy Center Consensus Conference, Aspen, Gaithersburg, MD, 1993, indicates that thermocouple devices used for the manual determination of local paraspinal temperature variations have not been shown to have good discriminability and both their validity and reliability of measurement is highly doubtful. The recommendation of the Mercy Conference is that there is no evidence to support a claim of effectiveness and the use of these devices is rated doubtful.

The muscle testing on 12/07/01, 12/27/01, and 01/23/02 was not medically necessary, as the performance of the testing is not substantiated in the medical record documentation. In addition, there is no documentation of the performance of range of motion studies performed on 12/06/01 and 01/09/02.

Therefore, the therapeutic exercises from 12/05/01 through 12/19/01, the manipulation from 12/05/01 through 01/23/02 and the myofascial release from 12/05/01 through 01/23/02 were medically necessary. However, the manual traction and the joint manipulation from 12/05/01 through 01/23/02, therapeutic exercises performed on and after 12/21/01, manipulation and myofascial release after 01/23/02, the TENS unit provided on 12/20/01, the CPT sensory nerve testing on 03/13/02, the temperature gradient study on 12/13/02, the physical performance testing on 12/07/01, 12/27/01 and 01/23/02, the range of motion studies performed on 12/26/01 and 01/09/02, and all treatments from 03/01/02 through 03/28/02 were not medically necessary.

Sincerely,