

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER:

SOAH DOCKET NO. 453-04-0360.M5

MDR Tracking Number: M5-03-0503-01

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 office visits and physical therapy rendered from 1-28-02 to 6-13-02 denied based upon "U".

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.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
5-29-02	99750FC	\$200.00	\$0.00	U	\$100.00/hr	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of \$200.00 is recommended.
1-28-02 3-7-02 3-11-02 3-27-02 3-28-02	97110	\$105.00	\$0.00	U	\$35.00 /15 min	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of 5 X \$105.00 = \$525.00 is recommended.
3-13-02 3-14-02 3-18-02 3-20-02 3-21-02 3-25-02 4-1-02	97110	\$70.00	\$0.00	U	\$35.00 /15 min	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of 7 X \$70.00 = \$490.00 is recommended.
3-7-02 3-11-02 3-14-02	99211	\$18.00	\$0.00	U	\$18.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of 3 X

							\$18.00 = \$54.00 is recommended.	
3-8-02 3-13-02 3-18-02 3-20-02 3-21-02 3-25-02 3-27-02 3-28-02 4-1-02	99212	\$32.00	\$0.00	U	\$32.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of 9 X \$32.00 = \$288.00 is recommended.	
TOTAL		\$1543.00						The requestor is entitled to reimbursement of \$1557.00.

The IRO concluded that all other remaining services were not medically necessary.

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

Consequently, the commission has determined that **the requestor did not prevail** on the majority of the medical fees (\$1557.00). 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.

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.

On March 20, 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 the Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
3-4-02 5-8-02 5-9-02	97110	\$105.00	\$0.00	\$35.00/ 15 min	Medicine GR (I)(A)(9)(b) (I)(A)(11)(a) (I)(C)(9)	Documentation supports billed service reimbursement of 3 X \$105.00 = \$315.00.
5-3-02	97110	\$70.00	\$0.00	\$35.00/ 15 min	Medicine	Documentation supports billed

5-6-02					GR (I)(A)(9)(b) (I)(A)(11)(a) (I)(C)(9)	service reimbursement of 2 X \$70.00 = \$140.00.
4-3-02 4-25-02	97113	\$208.00	\$0.00	\$52.00/ 15 min	Medicine GR (I)(A)(9)(b) (I)(A)(11)(a) (I)(C)(9)	Documentation supports billed service, reimbursement of 2X\$208.00 = \$416.00 is recommended.
4-3-02 5-6-02	97124	\$56.00	\$0.00	\$28.00 / 15 min	CPT Code Descriptor	Documentation supports billed service reimbursement of 2 X \$56.00 = \$112.00.
5-8-02	97139PH	\$32.00	\$0.00	DOP	Medicine GR (I)(C)(1)(r)	Documentation supports billed service reimbursement of \$32.00.
5-8-02	99070PH	\$7.00	\$0.00	DOP	General Instructions GR (IV)	Documentation supports billed service reimbursement of \$7.00.
4-3-02 5-3-02	99211	\$18.00	\$0.00	\$18.00	E/M GR (VI)(B)	Documentation supports billed service, reimbursement of 2X\$18.00 = \$36.00 is recommended.
5-8-02	99212	\$32.00	\$0.00	\$32.00	E/M GR (VI)(B)	Documentation supports billed service reimbursement of \$32.00.
TOTAL				The requestor is entitled to \$1090.00 reimbursement.		

This Decision is hereby issued this 29th day of July 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable to dates of service 1-28-02 through 6-13-02 in this dispute.

This Order is hereby issued this 29th day of July 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

March 10, 2003

MDR Tracking #: M5 03 0503 01
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 case was performed 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

___ was injured on her job with ___ when she stated that she tripped over an electrical cord and apparently fell to the ground, causing an instantaneous onset of low back pain. The day she was injured she sought care from ___, her chiropractor. He began conservative treatment at that time and did get some relief from the treatment. MRI was performed on the lumbar spine and demonstrated a 2 mm disc protrusion. Nerve conduction studies do indicate that there is a radiculopathy, S1, on the right. However, previous records are of note in that the patient had a low back injury several years before this one that also demonstrated a radiculopathy at S1. FCE reports are presented from 1/8/2002, 2/8/2002 and 5/29/2002 indicating that there was no significant improvement in the patient's condition. Even after the extensive treatment rendered she was til mostly in the light category. She was found to be at MMI by ___ on May 10, 2002 with 0% impairment.

DISPUTED SERVICES

The carrier has found a lack of medical necessity for therapeutic exercise, aquatic therapy, ultrasound therapy, office visits, phonophoresis and phonophoresis supplies, massage therapy, physical medicine procedures, supplies and functional capacity evaluations on the dates of 1/28/02-4/1/02, 4/3/02-5/2/02 and 5/6/02-6/13/02. Massage therapy, 2 units, were denied as medically unnecessary on November 27, 28 and 29 as well as December 7, 2001. Aquatic therapy (3 units) was denied as unnecessary medical for one-on-one therapy.

DECISION

The reviewer disagrees with the prior adverse determination regarding the FCE's, as well as therapeutic exercises and office visits up until April 1, 2002.

Aquatic therapy, ultrasound therapy, phonophoresis, phonophoresis supplies, massage therapy, physical medicine procedures and supplies are found to not be medically necessary.

BASIS FOR THE DECISION

While the treating doctor has very well documented this case, the treatment rendered was clearly excessive. I can find no reason to be performing passive treatment at this stage of the patient's treatment program. This patient is documented to be a probable symptom magnifier by the doctor's own FCE reports. The doctor also states that this patient has an OSWESTRY score in the 60's, which would be unusually high even for a serious acute low back injury. This patient is chronic in nature. As a result, no indications existed for extended passive therapy on this lady. Aquatic therapy is not shown to have had significant positive effect in this case, as witnessed by the lack of significant improvement in the FCE reports. Therapy rendered that was not contributory to the patient's recovery would also include aquatic therapy, ultrasound, phonophoresis with supplies, massage therapy, physical medicine procedures and supplies. As a result, I would recommend that office visits and the therapeutic exercises be extended to this patient for a reasonable period of time. From reviewing the records, the patient apparently reached maximum therapeutic benefit as of April 1, 2002. Care after that date could not be reasonably expected to help this patient return to work.

___ 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,