

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION NUMBER: SOAH DOCKET NO. 453-04-0105.M5

MDR Tracking Number: M5-03-0613-01

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 physical therapy services rendered from 11-27-01 to 1-3-02 that were denied based upon "U" or "T".

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	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
12-10-01 12-11-01 12-17-01 12-18-01 12-19-01 12-20-01 12-24-01 12-28-01 12-31-01 1-2-02 1-3-02	97110	\$140.00	\$0.00	T	\$35.00 /15 min	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of 11 X \$140.00 = \$1540.00 is recommended.
TOTAL		\$1540.00					The requestor is entitled to reimbursement of \$1540.00 .

The IRO concluded that joint mobilization code 97265 was 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 prevailed** on the majority of the medical fees (\$1540.00). 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.

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. These services included muscle and range of motion testing denied with EOB denial “G”; office visit denied with EOB denial “F”; and physical therapy service 97139TN denied with EOB denial code “A”.

On February 14, 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 requestor failed to submit medical records to support billed service per Rule 133.307(g)(3)(B); therefore, reimbursement is not recommended.

This Decision is hereby issued this 1st day of August 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

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 for 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 for dates of service 11-16-01 through 1-07-02 in this dispute.

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.

This Order is hereby issued this 1st day of August 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

Date: December 17, 2002

Requester/ Respondent Address: Rosalinda Lopez
TWCC
4000 South IH-35, MS-48
Austin, Texas 78704-7491

RE: MDR Tracking #: M5-03-0613-01
IRO Certificate #: 5242

___ 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 proposed 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 chiropractic physician reviewer who is board certified in chiropractic. The chiropractic physician reviewer 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

It appears the claimant originally injured himself on ___, while he was helping another coworker lift several boxes containing desks. It appears that the coworker dropped his end of a heavy box and the claimant suffered alleged neck and low back pain as a result. It appears the claimant was returned to work within a few weeks. According to the documentation, the original doctor or medical provider was under some type of pressure to get the claimant back to work. At any rate, the claimant resumed regular full-duty work for fear of losing his job.

It appears that he sustained another injury on ___, while lifting a heavy planter box or urn, which weighed in excess of six hundred pounds. As a result, it caused an aggravation of the claimant's low back and neck problems.

The documentation is fairly voluminous for review. An MRI of the lumbar spine and the cervical spine was completely normal. The initial chiropractic examination is reviewed, and a

cervical MRI was recommended, due to the claimant having dizziness and visual disturbances during cervical spine orthopedic testing. It appears the claimant did see a chiropractor back in September or October of 2001, yet was released on October 30, 2001, due to non-compliance. He began chiropractic care with another chiropractor on or about November 16, 2001. Multiple daily notes including lumbar range of motion, cervical range of motion, as well as lumbar and cervical strength examination findings and daily notes are reviewed. Claimant underwent mainly myofascial release, joint mobilization, manual traction, and therapeutic procedures and exercises from November 16, 2001 through January 7, 2002. The claimant also underwent several lumbar and cervical ranges of motion and strength evaluations. Claimant did show steady and very decent progress in range of motion and strength, from November 16, 2001 through December 18, 2001, as evidenced by the documentation. The claimant underwent a functional capacity evaluation of January 4, 2001, which stated that he was not able to meet his maximum sedentary Department of Labor Requirements. Further review of the functional capacity evaluation does reveal the claimant to be functioning, with respect to various lifting tasks, into the heavy duty level. The claimant appeared to have the most difficulty with activities such as crouching and squatting, as well as prolonged sitting and standing. The claimant had decreased crouching ability due to a knee injury that he sustained when he was seventeen years of age.

Claimant saw the osteopathic physician on January 21, 2002, and was complaining of low back pain, neck pain, left upper extremity and left lower extremity paresthesias and anesthetics. The diagnoses were cervical and lumbar sprain/strain and lumbar radiculopathy, even though the claimant had no clinical evidence of lumbar radiculopathy. The claimant was also felt to have left sided cubital tunnel syndrome at the left elbow. The claimant reportedly had electromyogram evidence of a left ulnar nerve lesion at the elbow, as well as a non-specific lumbar radiculopathy. The electromyogram is not provided in the documentation for review. Work hardening has been recommended by the doctor as well as another doctor.

Requested Service(s)

Please review and address the medical necessity of the chiropractic services requested and rendered from November 16, 2001 through January 7, 2002.

Decision

I disagree with the insurance carrier's assertion that all of the chiropractic services rendered from November 16, 2001 through January 7, 2002 were not reasonable and medically necessary. However, I do agree with the insurance carrier in that the joint mobilization and manipulation code should not have been used on the same day, as these provide similar therapeutic value.

Rationale/Basis for Decision

I understand that the claimant was initially non-compliant with treatment, due to transportation difficulties. However, he sustained a documented sprain/strain injury on ___ and again on ___. The documentation provided does reveal a very good progression

in the claimant's condition, with respect to range of motion and strength from November 16, 2001 through December 18, 2001. There are rather dramatic increases in range of motion and static cervical and lumbar strength, when comparing the November 16, 2001 strength and range of motion findings to the December 18, 2001 findings. The range of motion strength evaluations were, in my opinion, properly documented and do meet TWCC Guidelines. Performance of the range of motion and strength evaluations obviously goes beyond the realm of the regular evaluation/management code or office visit code. It is my opinion that good and sufficient progress was shown via the range of motion and strength tests. The services rendered were, in my opinion, reasonable and medically necessary from November 16, 2001 through January 7, 2002, except where stated above.

This decision by the IRO is deemed to be a TWCC decision and order.

<p>In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requester and claimant via facsimile or U.S. Postal Service from the office of the IRO on the 8th day of December 2002.</p>
