

MDR Tracking Number: M5-03-0719-01

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 chiropractic treatment and diagnostic studies rendered from 11-13-01 to 8-8-02 that were denied based upon "U" or "V".

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 |
|--|-------------|----------|--------|-----------------|--|--------------------|--|
| 11-13-01 11-14-01 11-16-01 11-20-01 12-31-01 1-2-02 1-9-02 1-11-02 2-5-02 2-13-02 2-27-02 5-8-02 5-31-02 6-7-02 | 99213 | \$48.00 | \$0.00 | U | \$48.00 | Section 408.021(a) | IRO concluded these services were medically necessary; therefore reimbursement of 14 X \$48.00 = \$672.00 is recommended. |
| 12-24-01 12-31-01 1-2-02 1-7-02 1-9-02 1-11-02 | 97110 | \$280.00 | \$0.00 | U | \$35.00 / 15 min | Section 408.021(a) | IRO concluded these services were medically necessary; therefore reimbursement of 6 X \$280.00 = \$1680.00 is recommended. |
| 1-4-02 | 97750 MT | \$172.00 | \$0.00 | U | \$43.00 / body area | Section 408.021(a) | IRO concluded these services were medically necessary; therefore reimbursement of \$172.00 is recommended. |
| 1-7-02 1-9-02 1-11-02 | 97150 | \$27.00 | \$0.00 | U | \$27.00 | Section 408.021(a) | IRO concluded these services were medically necessary; therefore reimbursement of 3 X \$27.00 = \$81.00 is recommended. |
| 1-29-02 5-7-02 | 95851 | \$36.00 | \$0.00 | U | \$36.00 | Section 408.021(a) | IRO concluded these services were medically necessary; therefore |

| | | | | | | | |
|---|-------------|-----------|--------|---|------------------------|-----------------------|---|
| | | | | | | | reimbursement of 2 X \$36.00 = \$72.00 is recommended. |
| 1-29-02 5-7-02 | 97750 MT | \$129.00 | \$0.00 | U | \$43.00 / body area | Section 408.021(a) | IRO concluded these services were medically necessary; therefore reimbursement of 2 X \$129.00 = \$258.00 is recommended. |
| 11-27-01 2-5-02 4-30-02 6-7-02 7-25-02 8-8-02 | 99070 | \$8.00 | \$0.00 | U | DOP | Section 408.021(a) | IRO concluded these services were medically necessary; therefore reimbursement of 6 X \$8.00 = \$48.00 is recommended. |
| 1-7-02 1-9-02 1-11-02 5-8-02 5-31-02 6-7-02 6-27-02 | 97250 | \$43.00 | \$0.00 | U | \$43.00 | Section 408.021(a) | IRO concluded these services were medically necessary; therefore reimbursement of 7 X \$43.00 = \$301.00 is recommended. |
| 1-30-02 | 99215 | \$125.00 | \$0.00 | U | \$103.00 | Section 408.021(a) | IRO concluded these services were medically necessary; therefore reimbursement of \$103.00 is recommended. |
| TOTAL | | \$3387.00 | | | | | The requestor is entitled to reimbursement of \$3387.00 . |

The IRO concluded that all services provided from 11-13-01 through 8-8-02 with the exception of 97265 were 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 (\$3387.00). 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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

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 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 |
|----------------------|----------|----------|--------|-----------------|---|--|--|
| 11-27-01 | 95851 | \$36.00 | \$0.00 | G | \$36.00 each | CPT code Description | On 11-27-01, the requestor billed for a comprehensive office visit, range of motion testing and muscle testing . |
| 11-27-01 11-29-01 | 97750MT | \$129.00 | \$0.00 | G | \$43.00 / body area | CPT code Description Medicine GR (I)(E)(2) (a) and (b)(i)(ii)(iii) Medicine GR (I)(E)(3) TWCC and the Importance of Proper Coding | <p>Range of Motion testing and Muscle testing are not global to the office visit.</p> <p>The requestor noted that on these dates physical capacity testing was done. Per Medicine GR (I)(E)(2)(b)(ii), physical capacity evaluations are a component of a FCE. The MFG states that physical evaluations, range of motion and muscle testing are global to a Functional Capacity Evaluation. Per Medicine GR (I)(E)(3), “muscle testing may replace six components of the functional abilities test and shall be reimbursed (by time required) as a component of the FCE, not exceeding the MAR for an FCE.”</p> <p>Therefore, the requestor billed incorrectly by billing components of an FCE separately. On 11-27-01 the requestor billed \$446.00 for the services. The MAR for an initial FCE is \$500.00. Per Medicine GR (I)(E)(2)(a), the second FCE’s MAR is \$200.00.</p> <p>Since an EOB was not submitted showing breakdown of payment for this date of service; and the total amount billed on this date does not exceed the amount allowed for an initial FCE, reimbursement for ROM and muscle testing is recommended = \$165.00.</p> <p>The 11-29-01HCFA-1500 indicates that only muscle testing was performed on this date; therefore, it is not global to any service provided; therefore, reimbursement per MFG is recommended. Per MFG two body areas were tested; therefore, reimbursement of \$86.00is recommended.</p> |
| 12-17-01 | 97750MT | \$172.00 | \$0.00 | No EOB | \$43.00 / body area | Medicine GR (I)(E)(3) | Per MFG two body areas were tested; therefore, reimbursement of \$86.00is recommended. |

| | | | | | | | |
|--|-------|----------|--------|-----------|------------------|------------------------------------|---|
| 12-3-01 12-5-01 12-10-01 12-12-01 12-14-01 12-21-01 | 97110 | \$280.00 | \$0.00 | No EOB | \$35.00 / 15 min | Medicine GR (I)(A)(9)(b) | Documentation supports billed service, reimbursement of 6 X \$280.00 = \$1680.00 is recommended |
| 12-5-01 12-7-01 12-12-01 12-14-01 12-21-01 | 99213 | \$48.00 | \$0.00 | No EOB | \$48.00 | CPT Code Description | Documentation supports billed service, reimbursement of 5 X \$48.00 = \$240.00 is recommended |
| 12-7-01 | 97110 | \$245.00 | \$0.00 | No EOB | \$35.00 / 15 min | Medicine GR (I)(A)(9)(b) | Documentation supports billed service, reimbursement of \$245.00 is recommended |
| 12-7-01 | 97250 | \$43.00 | \$0.00 | No EOB | \$43.00 | CPT Code Description | Documentation supports billed service, reimbursement of \$43.00 is recommended |
| 12-7-01 | 97265 | \$43.00 | \$0.00 | No EOB | \$43.00 | CPT Code Description | Documentation supports billed service, reimbursement of \$43.00 is recommended |
| 12-10-01 12-21-01 | 99070 | \$8.00 | \$0.00 | No EOB | DOP | General Instructions GR (IV) | Documentation supports billed service, reimbursement of 2 X \$8.00 = \$16.00 is recommended |
| TOTAL | | | | | | | The requestor is entitled to reimbursement of \$2604.00. |

This Decision is hereby issued this 1st day of August 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 Order is applicable to dates of service 11/13/01 through 08/08/02 in this dispute.

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

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

January 30, 2003

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

MDR Tracking #: M5 03 0719 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.

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

This patient was injured on his job when, according to the records, he was riding in the bed of the company's pick up truck when it was rear-ended. He was thrown forward into an in-bed toolbox, causing rib and right shoulder injuries. Ribs 5, 6, and 7 on the right were fractured. He presented for care to the office of ___ and has been treated with chiropractic and adjunctive care to the injured areas. Documentation of the procedures indicates that the patient went through a full course of active and passive treatment and was found to be at MMI on April 3, 2002 by a designated doctor. The exam was performed on December 10, 2002. Neither peer review report nor other literature was presented by the carrier on this case.

DISPUTED SERVICES

The carrier is disputing office visits, analgesic balm, therapeutic exercises, muscle testing, group therapy procedures, myofascial release, joint mobilization and range of motion testing.

DECISION

The reviewer agrees with the prior adverse determination regarding joint mobilization.

The reviewer disagrees with the prior adverse determination regarding all other treatments.

BASIS FOR THE DECISION

With reference to the analgesic balm, this patient clearly was in a very painful situation and the treating doctor's notes certainly indicated that he was getting relief from this treatment. Range of motion was apparently challenged by the carrier as being included in an office visit. The documentation shows that the range of motion used by the treating doctor involved precise measuring equipment and is not the normal "visual" ROM used by many providers of differing licensure. The treating doctor's notes are very extensive and certainly they justify the extensive treatment rendered in the form of office visits, therapeutic exercises, group therapy and myofascial release. However, code 97265 is unreasonable in this case. The chiropractic manipulation takes place under the office visit and joint mobilization would be a duplicate billing in this case. The carrier did not present any form of evidence, such as a peer review or carrier policy, that would discount the credibility of the treating doctor's protocol.

___ 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,