

MDR Tracking Number: M5-03-0827-01

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 application of surface neuromuscular stimulator, unusual travel, office visits, physical therapy services and diagnostic studies rendered from 6-11-02 to 7-26-02 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
5-1-02 5-2-02 5-6-02 5-10-02 5-13-02 5-20-02 5-22-02 5-23-02 5-28-02 5-31-02 6-4-02 6-5-02 6-6-02 6-10-02 6-12-02 6-18-02 6-24-02	97113 (8 units)	\$416.00	\$0.00	U	\$52.00/ 15 min X 8 = \$416.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of 17 dates X \$416.00 = \$7,072.00 is recommended.
5-8-02	97113 (7 units)	\$364.00	\$0.00	U	\$52.00/ 15 min	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of \$364.00 is recommended.
5-29-02	97112 (4 units)	\$140.00	\$0.00	U	\$35.00 / 15 min	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of \$140.00 is recommended.
5-29-02	97530 (3 units)	\$105.00	\$0.00	U	\$35.00 / 15 min	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of \$105.00 is recommended.

TOTAL	\$8097.00	The requestor is entitled to reimbursement of \$8097.00.
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The IRO concluded that 97113, 97112 and 97530 were medically necessary. However, all other 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 prevailed** on the majority of the medical fees (\$8097.00). 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 April 25, 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	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
11-19-01 11-26-01 11-28-01 11-30-01 12-7-01 12-10-01 12-13-01 12-17-01 12-19-01 12-28-01 1-2-02 1-4-02 1-7-02 1-9-02 1-14-02 1-24-02 1-29-02 2-1-02 2-7-02 2-14-02 2-22-02	64550	\$101.00	\$0.00	D, K, O	\$101.00	CPT Code description	Application of surface (transcutaneous) neurostimulator - The Medical Review Division does not have jurisdiction to review disputes regarding scope of practice. Services will be reviewed in accordance with <i>Medical Fee Guideline</i> . Progress reports indicate "Neurotransmitter therapy was administered to the lumbar spine." Reimbursement is recommended of 21 dates X \$101.00 = \$2121.00.

TOTAL		\$2121.00					The requestor is entitled to reimbursement of \$2121.00.	

This Decision is hereby issued this 22nd 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 6-11-02 through 7-26-02 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 22nd day of August 2003.

Roy Lewis, Supervisor
 Medical Dispute Resolution
 Medical Review Division

February 11, 2003

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

Based on available documentation, this patient reports an occupational injury having occurred on ___. He had seen multiple physicians and specialists for lower back conditions but very little of this reporting is submitted for review. The patient began seeing a chiropractor, ___, on or about 8/20/01. There are no chiropractic records regarding the initial presentation, past medical history, new patient examination or findings submitted for review. ___ appears to have been treating this patient for chief complaints ranging from “spasms of the lumbar spine” to “lumbar pain with bilateral radicular leg pain.” No advanced imaging or other specific diagnostic impressions were provided for review. Daily chiropractic SOAP notes suggest examination findings of lumbar spasm, subluxation and lumbar edema as of 11/19/01. Subjective analogue pain levels appear to be assessed at 10/10 at the onset of treatment, then diminishing to various levels following each treatment. From 11/18/01 through 2/22/02 the patient appears to be treated with “surface neurotransmitter” therapy for multiple sessions. The patient is then transitioned into traditional physical modalities (with multiple units) from 12/12/02 through 7/26/02. No information is provided concerning therapy provided from date of injury until 11/19/01. There are four form letters within the doctor’s notes dated 1/17/02, 2/28/02, 4/3/02 and 6/7/02, indicating that “today our patient was picked up at his home so that health care services could be provided in our facility.” EOBs and the Table of Disputed Services suggest that this patient was transported and billed for this service 70+ times between 11/18/01 and 7/26/01. No affidavit or statement of need from the patient is provided for review. The patient appears to have a myelogram performed on 12/12/01, but no report of this is provided for review. The patient appears to be seen by an orthopedic surgeon, ___, on 1/3/02 indicating a working diagnosis of HNP at L5/S1 that appears to be confirmed by MRI and myelogram studies (not provided for review). Medications are provided and the patient is scheduled for ESI, which was performed on 1/17/02. The patient continued with chiropractic care reporting pain levels at 10/10 through April, May, June, and July of 2002 with chiropractic care provided at 3x per week and little or no change in conditions noted. On 6/14/02, chiropractic notes suggest that the patient may have a low back or disc infection. The patient was continued with passive modalities and aquatic exercise therapy.

There is a 6/28/02 report from ___ indicating that there is no evidence of infection or discitis. He notes that the patient has made little or no improvement with chiropractic treatment. ___ suggests that the persisting pain appears to be from L3/4 and L5/S1 disc disruption and suggests an additional series of epidurals and facet blocks. The patient appears to be referred to ___ for consideration of discography and IDET. No follow-up medical evaluations are provided for review.

DISPUTED SERVICES

The reason for this IRO assignment is to review the medical necessity for services provided from 11/26/01 through 7/26/02. This includes unusual travel, analysis information data, and therapeutic procedures.

DECISION

The reviewer both agrees and disagrees with the prior adverse determination.

97113 / 97112 / 97530 – These active therapeutic modalities do appear to be somewhat documented in chiropractic reporting and do appear to be supported by medical necessity.

The reviewer found all other items in this dispute were neither medically necessary nor appropriate.

BASIS FOR THE DECISION

99082 - Regarding unusual travel (transportation and escort of the patient), this service is provided in excess of 70 times during the period under review, but is accompanied by DOP on only four dates of service. This is not a usual and customary service performed by health care providers. There is little or no documentation supporting medical necessity for this service. No affidavit of need or hardship is provided and no explanation is given concerning the specific circumstance surrounding the individual (ice. Distance required to travel, availability of closer facilities, availability of family, neighborhood or community support).

99090 - Regarding analysis of information from stored data, there is no corresponding DOP for this service billed on 12/28/01, 1/11/02, 4/26/02 and 7/11/02. This service is generally reserved for the retrieval and analysis of information data stored on computers (e.g. ecgs, blood pressures, hematologic data or other lab results) for comparison or submission to third parties upon specific request. There is no documentation supporting medical necessity for this service.

99362 - Regarding medical conference physician with team, this service which was billed on 5/24/02 and 7/19/02 has no corresponding DOP. There is no note in corresponding chiropractic reports regarding any such team conference for the purpose of medical decision-making. There is no evidence of medical necessity for this service.

72148 - Regarding MRI/Spine 6/24/02, there is no specific clinical order, DOP or Radiological Reporting submitted for this service.

64550 - Regarding application of surface neurostimulator, all dates, this service is found under the Surgery RVS CPT-4 for the purpose of distinguishing between surface (transcutaneous) applications and percutaneous implantation of neurostimulator electrodes. This service relates to the application of devices in a surgical setting and not for the therapeutic application of TENS as a physical medicine modality. This is an incorrect CPT code for identification of this service. There is no evidence of medical necessity for this service as identified.

99080-73 - Regarding special reports (TWCC-73) Work Status Reports (all dates), this is standard reporting required by the commission to be submitted by the treating doctor directly to the employer and carrier as indicated. There were no TWCC-73 Work Status Reports submitted in this file for review. There appear to be no other Special Reports submitted on these dates of service other than chiropractic SOAP notes. No work status is mentioned in these notes.

99215 - Regarding comprehensive evaluation/management of an established patient, this service is a high level, comprehensive patient encounter requiring extensive complexity of diagnosis and clinical decision-making. These corresponding dates of service and SOAP notes do not provide any information regarding significant history, injury/onset or specific ICD-9 diagnostic impressions and therefore cannot qualify for this level of service.

97113 / 97112 / 97530 – These active therapeutic modalities do appear to be somewhat documented in chiropractic reporting and do appear to be supported by medical necessity.

97022 / 97012 / 97032 / 97035 (multiple units) – These passive modalities at multiple units 1+ year post-injury suggest no potential for further functional restoration or progressive benefit. Medical necessity for these services at this late phase of care has not been determined. These applications for the management of chronic pain are questionable and do not appear to meet any generally accepted treatment protocol.

99213 / 97265 – Chiropractic reporting does not indicate if spinal manipulation is provided in addition to joint mobilization services. Several dates of service have no mention of either as a management component in SOAP reporting. As there is but one area of complaint (lumbar), the application of both spinal manipulation and joint mobilization would appear to be a duplication of same or similar service. Documentation does not support medical necessity for this combined service.

On the majority of patient encounters, analogue pain scale measurements in the doctor's notes suggest the patient's pain levels to be 10 on a scale of 1 to 10. Frequently, the pain level is measured at 10/10 following treatment (after care) as well. On several occasions (for example, 4/25/02) the patient's pain levels appear worsened by the

treatment or encounter. Most analogue pain studies classify (10) on this scale to be “unbearable, crying out, or emergency” levels of pain. These levels of pain generally require an appropriate medical, psychiatric or psycho-behavioral intervention before

physical medicine applications can be considered as medically necessary. This file contains no documentation of psychological or pain behavior assessment. During the period in question, treatment interventions are applied at six months to one-year post-injury with little change noted in the patient’s condition. Without additional medical documentation (prior six months), other specific issues of medical necessity cannot be appropriately addressed.

___ 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,