

MDR Tracking Number: M5-03-0964-02

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution – General 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. This dispute was received on 10-15-02.

This AMENDED FINDINGS AND DECISION supersedes M5-03-0964-01 rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision of 9-4-03 was remanded by the State Office of Administrative Hearings on 1-23-04 because, "The underlying decision needs clarification because the District Court of the 44th Judicial District found, contrary to the Contested Case Hearing Officer, that Claimant's compensable injury did not include injuries to his neck and thoracic spine so that the issue of medical necessity should be limited to treatments to the lumbar spine and because the decisions of the Independent Review Organization and MRD contain discrepancies about the dates of service."

I. DISPUTE

Whether there should be reimbursement for CPT codes: 99213, 97012, 97035, 97110, 97112, E0745, E1399, 97014, 97265, 97250, 97122 and 99080 rendered from 11-5-01 through 9-17-02.

II. FINDINGS & RATIONALE

The IRO reviewed physical therapy sessions, DME supplies, office visits, required reports and analysis of info. Date rendered from 11-5-01 to 9-17-02 that were denied based upon "U".

The IRO concluded, "The office visits, physical therapy, and required reports are found to be medically necessary from 11/5/01 through 2/8/02. After 2/8/02, both objective and subjective findings do not change significantly and the care would not be deemed as medically necessary. The office visits, physical therapy and required reports are found to be medically necessary following that patient's lumbar spinal injection dates of service 4/10/02 through 4/19/02. The patient won a CCH on 6/24/02 to include compensable injuries to the cervical and thoracic spine. After that date, according to the treatment notes provided, the reviewer does not note any significant change in treatment of the patient to include treatment to the cervical and thoracic spinal areas, so these treatments were not found to be medically necessary. Prior to 6/24/02, the patient was performing stretching and therapeutic exercises to the low back and cervical spine. The patient also had a portable EMS unit prescribed to him for relief of pain. That unit and monthly supplies would be deemed medically necessary."

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.

As stated above, “the District Court of the 44th Judicial District found, contrary to the Contested Case Hearing Officer, that Claimant’s compensable injury did not include injuries to his neck and thoracic spine so that the issue of medical necessity should be limited to treatments to the lumbar spine.”

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
11-8-01 11-12-01 11-13-01 11-14-01 11-15-01 11-16-01 11-19-01 11-20-01 11-27-01 11-28-01 11-30-01 12-4-01 12-5-01 12-6-01 12-11-01 12-13-01 12-14-01 12-18-01 12-20-01 12-21-01 12-24-01 12-27-01 12-31-01 1-2-02 1-8-02 1-9-02 1-10-02 1-15-02 1-17-02 1-18-02 1-24-02 1-25-02 1-29-02 1-31-02 2-1-02 2-5-02 2-8-02	99213	\$48.00	\$0.00	U	\$48.00	Section 408.021(a)	EOBs indicate 12-13-01 was paid; therefore, will not be considered any further in this Findings and Decision. IRO concluded these services were medically necessary. The office visit reimbursement is the same regardless of areas treated; therefore, reimbursement in accordance with MFG is recommended of 42 dates X \$48.00 = \$2016.00.

4-10-02 4-12-02 4-16-02 4-17-02 4-19-02							
11-8-01 11-15-01 12-14-01 12-20-01	97012	\$20.00	\$0.00	U	\$20.00	Section 408.021(a)	IRO concluded these services were medically necessary. The mechanical traction reimbursement is the same regardless of areas treated; therefore, therefore reimbursement in accordance with MFG is recommended of 4 dates X \$20.00 = \$80.00.
11-8-01 11-12-01 11-13-01 11-15-01 11-19-01 12-14-01 12-27-01 12-31-01 1-8-02 1-9-02 1-18-02 1-29-02 2-1-02 2-5-02 2-8-02	97250	\$43.00	\$0.00	U	\$43.00	Section 408.021(a)	IRO concluded these services were medically necessary. The myofascial release reimbursement is the same regardless of areas treated; therefore, reimbursement in accordance with MFG is recommended of 15 dates X \$43.00 = \$645.00.
11-8-01 11-12-01 11-13-01 11-15-01 11-19-01 12-5-01 1-8-02 2-1-02	97265	\$43.00	\$0.00	U	\$43.00	Section 408.021(a)	IRO concluded these services were medically necessary. Joint mobilization reimbursement is the same regardless of areas treated; therefore, reimbursement in accordance with MFG is recommended of 8 dates X \$43.00 = \$344.00.
11-8-01 11-12-01 12-5-01 12-14-01	97112 (2 units)	\$70.00	\$0.00	U	\$35.00 /15 min	Section 408.021(a)	IRO concluded these services were medically necessary; however, neuromuscular re-education is a timed procedure. The MDR is unable to determine from progress note how much time was spent treating the compensable lumbar spine; therefore, no reimbursement is recommended.
12-18-01 12-21-01	97112	\$35.00	\$0.00	U	\$35.00 /15 min	Section 408.021(a)	
11-8-01 11-12-01 11-13-01 11-15-01 12-13-01 12-21-01 12-24-01 12-27-01 12-31-01 1-9-02 2-5-02 2-8-02	97035 (2 units)	\$44.00	\$0.00	U	\$22.00 / 15 min	Section 408.021(a)	IRO concluded these services were medically necessary; however, ultrasound is a timed procedure. The MDR is unable to determine from progress note how much time was spent treating the compensable lumbar spine; therefore, no reimbursement is recommended.

11-13-01 11-15-01 11-19-01 12-5-01 12-24-01 1-18-02 1-29-02 2-1-02	97122 (2 units)	\$70.00	\$0.00	U	\$35.00 / 15 min	Section 408.021(a)	IRO concluded these services were medically necessary; however, traction is a timed procedure. The MDR is unable to determine from progress note how much time was spent treating the compensable lumbar spine; therefore, no reimbursement is recommended.
11-19-01 12-5-01 12-26-01 12-27-01 2-1-02	97110 (4 units)	\$140.00	\$0.00	U	\$35.00 / 15 min	Section 408.021(a)	IRO concluded these services were medically necessary; however, therapeutic exercises is a timed procedure. The MDR is unable to determine from progress note how much time was spent treating the compensable lumbar spine; therefore, no reimbursement is recommended.
12-13-01 12-18-01 12-21-01 12-31-01 1-9-02 2-5-02	97110 (6 units)	\$210.00	\$0.00	U	\$35.00 / 15 min	Section 408.021(a)	IRO concluded these services were medically necessary; however, therapeutic exercises is a timed procedure. The MDR is unable to determine from progress note how much time was spent treating the compensable lumbar spine; therefore, no reimbursement is recommended.
12-14-01 12-24-01 1-8-02 1-18-02 1-29-02 2-8-02	97110 (5 units)	\$175.00	\$0.00	U	\$35.00 / 15 min	Section 408.021(a)	
12-27-01 1-8-02	97122	\$35.00	\$0.00	U	\$35.00 / 15 min	Section 408.021(a)	IRO concluded these services were medically necessary. Since only one unit was billed regardless of areas treated reimbursement in accordance with MFG is recommended of 2 dates X \$35.00 = \$70.00.
12-20-01 2-7-02	97110 (7 units)	\$245.00	\$0.00	U	\$35.00 / 15 min	Section 408.021(a)	IRO concluded these services were medically necessary; however, therapeutic exercises is a timed procedure. The MDR is unable to determine from progress note how much time was spent treating the compensable lumbar spine; therefore, no reimbursement is recommended.
4-10-02 4-12-02 4-16-02 4-17-02 4-19-02	97110 (8 units)	\$280.00	\$0.00	U	\$35.00 / 15 min	Section 408.021(a)	
12-3-01 2-7-02	99214	\$71.00	\$0.00	U	\$71.00	Section 408.021(a)	IRO concluded these services were medically necessary. The office visit reimbursement is the same regardless of areas treated; therefore reimbursement in accordance with MFG is recommended of 2 dates X \$71.00 = \$142.00.
12-3-01 2-7-02	99080	\$15.00	\$0.00	U	\$15.00	Section 408.021(a)	IRO concluded these services were medically necessary. The report reimbursement is the same regardless of areas treated; therefore reimbursement in accordance with

							MFG is recommended of 2 dates X \$15.00 = \$30.00.
3-12-02	E0745	\$495.00	\$0.00	U	DOP	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement in accordance with MFG is recommended of \$495.00.
3-22-02 7-10-02	E1399	\$16.00	\$0.00	U	DOP	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement in accordance with MFG is recommended of 2 dates X \$16.00 = \$32.00.
TOTAL							The requestor is entitled to reimbursement of \$3854.00 .

On this basis, the total amount recommended for reimbursement (\$3854.00) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. 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.

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

On February 21, 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:

As stated above, "the District Court of the 44th Judicial District found, contrary to the Contested Case Hearing Officer, that Claimant's compensable injury did not include injuries to his neck and thoracic spine so that the issue of medical necessity should be limited to treatments to the lumbar spine."

No EOB: Neither party in the dispute submitted EOBs for some of the disputed services identified above. Since the insurance carrier did not raise the issue in their response that they had not had the opportunity to audit these bills and did not submit copies of the EOBs, the Medical Review Division will review these services per *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
12-26-01 4-30-02 5-1-02 5-7-02 5-30-02 6-10-02	99213	\$48.00	\$0.00	No EOB	\$48.00	Evaluation & Management GR (IV)	The office visit reimbursement is the same regardless of areas treated; therefore, reimbursement of 6 dates X \$48.00 = \$288.00 is recommended.
12-26-01	97122 (2 units)	\$70.00	\$0.00	No EOB	\$35.00 / 15 min	CPT code description	Traction is a timed procedure. The MDR is unable to determine from progress note how much time was spent treating the compensable lumbar spine; therefore, no reimbursement is recommended.
12-26-01	97035 (2 units)	\$44.00	\$0.00	No EOB	\$22.00 / 15 min	CPT code description	Ultrasound is a timed procedure. The MDR is unable to determine from progress note how much time was spent treating the compensable lumbar spine; therefore, no reimbursement is recommended.
1-22-02	99213	\$48.00	\$0.00	R	\$48.00	District Court Decision	The office visit reimbursement is the same regardless of areas treated; therefore, reimbursement of \$48.00 is recommended.
1-22-02	E0745	\$150.00	\$0.00	R	DOP	District Court Decision	Neuromuscular stimulator use is the same regardless of areas treated. Reimbursement of \$150.00 is recommended.
4-15-02 5-31-02 9-17-02	99090	\$108.00	\$0.00	N	\$108.00	CPT code description	Analysis of information data stored in computers – the 4-15-02 report has a check next to MRI report; the 5-31-02 report is not completed; and 9-17-02 report has checked the cervical myelogram report. The reports do not support billing of service per MFG; therefore, no reimbursement is recommended.
4-30-02 5-1-02 5-30-02 6-10-02	97110 (8 units)	\$280.00	\$0.00	No EOB	\$35.00 / 15 min	Medicine GR (I)(A)(9)(b)	See rationale below.
5-7-02	97110 (7 units)	\$245.00	\$0.00	No EOB	\$35.00 / 15 min		
5-7-02	97014	\$15.00	\$0.00	No EOB	\$15.00	CPT code description	Electrical stimulation reimbursement is the same regardless of areas treated, reimbursement is recommended of \$15.00.
TOTAL							The requestor is entitled to reimbursement of \$501.00 .

Rationale for 97110:

Recent review of disputes involving one-on-one CPT code 97110 by the Medical Dispute Resolution section indicate overall deficiencies in the adequacy of the documentation of this code both with respect to the medical necessity of one-on –one therapy and documentation reflecting that these individual services were provided as billed. Moreover, the disputes indicate confusion regarding what constitutes “one-on-one.” Therefore, consistent with the general obligation set forth in Section 413.016 of the Labor Code, the Medical Review Division has reviewed the matters in light all of the Commission requirements for proper documentation. The therapy notes for these dates of service do not support any clinical (mental or physical) reason as to why the patient could not have performed these exercises in a group setting, with supervision, as opposed to one-to-one therapy. The Requestor has failed to submit documentation to support reimbursement in accordance with the 1996 MFG and 133.307(g)(3). Therefore, reimbursement is not recommended.

III. AMENDED DECISION & ORDER

Based upon the review of the disputed healthcare services within this request, the Medical Review Division has determined that the requestor is entitled to reimbursement for CPT codes, 99213, 99214, 97014, 97012, 97250, 97265, 99080, E0745 and E1399 in the amount of \$4355.00. Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby **ORDERS** the Respondent to remit **\$4355.00** plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this Order.

The above Amended Findings and Decision are hereby issued this 20th day of October 2004.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

February 7, 2003

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

Patient: _____
TWCC #: _____
MDR Tracking #: M5-03-0964-01
IRO #: 5251

Ziroc 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 Ziroc for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

Ziroc 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 Ziroc 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 Ziroc 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

Mr. ___ is a 60-year-old construction worker whose records state that on ___ he was injured in a work accident. He was pulling on some materials and slipped and fell backward, landing on his back. He reported low back pain, mid back pain, and neck pain. The carrier disputed neck and mid back complaints as non-compensable. The patient began chiropractic care with both active and passive care on 11/5/01 for his low back condition. The patient had a Contest Case Hearing on 6/24/02 for the neck and mid back complaints. He won his CH and began treatment on those areas.

DISPUTED SERVICES

Under dispute are physical therapy sessions, durable medical equipment and supplies, office visits, required reports and analysis of information data rendered from 11/5/01 through 9/17/02.

DECISION

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

After 6/24/02, cervical or thoracic spinal treatments were not found to be medically necessary, though services provided prior to this date were.

The portable EMS unit prescribed and monthly supplies were deemed medically necessary.

BASIS FOR THE DECISION

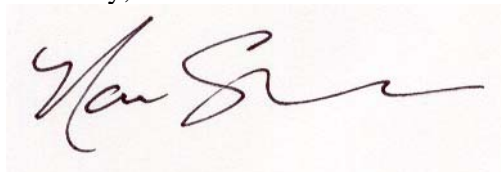
The office visits, physical therapy, and required reports are found to be medically necessary from 11/5/01 through 2/8/02. After 2/8/02, both objective and subjective findings do not change significantly and the care would not be deemed as medically necessary. The office visits, physical therapy and required reports are found to be medically necessary following the patient's lumbar spinal injection dates of service 4/10/02 through 4/19/02. The patient won a CCH on 6/24/02 to include compensable injuries to the cervical and thoracic spine. After that date, according to the treatment notes provided, the reviewer does not note any significant change in treatment of the patient to include treatment to the cervical or thoracic spinal areas, so these treatments were not found to be medically necessary. Prior to 6/24/02, the patient was performing stretching and therapeutic exercises to the low back and cervical spine. The patient also had a portable EMS unit prescribed to him for relief of pain. That unit and monthly supplies would be deemed medically necessary.

Ziroc has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. Ziroc has made no determinations regarding benefits available under the injured employee's policy

As an officer of ZRC Services, Inc, dba Ziroc, I certify that there is no known conflict between the reviewer, Ziroc and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

Ziroc is forwarding this finding by US Postal Service to the TWCC.

Sincerely,

A handwritten signature in black ink, appearing to read "Nan Cunningham", is written over a light-colored rectangular background.

Nan Cunningham
President/CEO

CC: Ziroc Medical Director