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

SOAH DOCKET NO. 453-04-0993.M5

MDR Tracking Number: M5-03-1002-01

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 12-13-02.

The IRO reviewed chiropractic treatment and physical therapy rendered from 3-5-02 through 5-17-02 that were denied based upon "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	MAR$ (Maximum Allowable Reimbursement)	Reference	Rationale
3-5-02 3-6-02 3-11-02 3-13-02 3-15-02 3-18-02 3-20-02 3-22-02 3-25-02 4-4-02 4-10-02 4-12-02 4-17-02 4-25-02 5-7-02 5-10-02 5-14-02 5-17-02	99213	$48.00	$0.00	V	$48.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore, reimbursement is recommended in accordance with MFG.

3-5-02 3-6-02 3-8-02 3-11-02 3-13-02 3-15-02 3-18-02 3-20-02 3-22-02 3-25-02 4-4-02 4-10-02 4-12-02 4-17-02 4-25-02 5-10-02 5-14-02	97265	$43.00	$0.00	V	$43.00	Section 408.021(a)	IRO concluded these services were medically necessary, reimbursement is recommended per MFG.
3-5-02 3-6-02 3-8-02 3-11-02 3-13-02 3-15-02 3-18-02 3-20-02 3-22-02 4-10-02	97110 (4 units)	$140.00	$0.00	V	$35.00 / 15 min		
3-5-02 3-6-02 3-8-02 3-11-02 3-13-02 3-15-02 3-18-02 3-20-02 3-22-02 3-25-02 4-4-02 4-10-02 4-12-02 4-17-02 4-25-02 5-1-02 5-7-02 5-10-02 5-14-02 5-17-02	97250	$43.00	$0.00	V	$43.00		
4-12-02	97110 (3 units)	$105.00	$0.00	V	$35.00 / 15 min		

The IRO concluded that the office visits and physical medicine treatments that incorporated active care (99213, 97110, 97265, 97250) were medically necessary. The reviewer did not find that the passive modalities were medically necessary.

Consequently, the commission has determined that **the requestor prevailed** on the majority of the medical fees. 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.

On June 18, 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
4-8-02	99213	$48.00	$0.00	No EOB	$48.00	Evaluation & Management GR (IV)	Since neither party submitted an EOB to support basis of denial; this date of service will be reviewed in accordance with MFG. The requestor did not submit medical records to support billed service per MFG; therefore, no reimbursement is recommended.
4-8-02	97265	$43.00	$0.00	No EOB	$43.00	CPT Code Descriptor	
4-8-02	97110 (4 units)	$140.00	$0.00	No EOB	$35.00 / 15 min X 4 = $140.00	Medicine GR (I)(A)(9)(b)	
4-8-02	97250	$43.00	$0.00	No EOB	$43.00	CPT Code Descriptor	
TOTAL							The requestor is not entitled to reimbursement.

This Decision is hereby issued this 2nd day of October 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

June 10, 2003

MDR Tracking #: M5-03-1002-01
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 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

___ was injured on ___ at a time when she was 5 1/2 months pregnant. Her baby was delivered in ___. The patient was started in a more active program in August of that same year. She had numerous referrals to other physicians for consultation/treatment. She had two ESIs. After the second one on 3/26/02 she began heavy and prolonged menstrual bleeding, saw her gynecologist, and was found to be in need of a hysterectomy. All active treatment was stopped. Peer reviews found the patient at MMI, however two designated doctors found the patient not at MMI. The last one recommended a work hardening program after recovery from gynecological surgery.

DISPUTED SERVICES

Under dispute is the medical necessity of electrical stimulation, therapeutic exercise, myofascial release, joint mobilization, PT one area and MP office outpatient visits.

DECISION

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

The reviewer finds medical necessity for the office visits and physical medicine treatments that incorporated active care (99213, 97110, 97265, 97250).

The reviewer does not find medical necessity of passive modalities.

BASIS FOR THE DECISION

Passive modalities are not indicated, except in the acute phase of care, typically in the first six weeks. The patient was clearly past the acute phase of care on the dates in question.

The treating doctor was entirely correct in continuing care in order to coordinate ongoing medical treatments for this patient. The treating doctor is responsible for making appropriate referrals, as well as completing the required TWCC documentation. Office visits are necessary in tracking the patient's progress.

This patient was in an active treatment program, designed to increase functional ability, including increasing range of motion, to aid the patient in return to normal activities of daily living and return to work. Numerous other health care providers agreed that this patient should continue these treatments, treatments the reviewer has found to be medically necessary.

___ 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 ___, dba ___, 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,