

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 3-31-03.

The IRO reviewed chiropractic treatment and physical therapy services rendered from 4-2-02 through 10-17-02 that were denied based upon “U”.

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.

The IRO concluded that the therapy and monthly office visits (4-18-02 and 6-4-02 with the maximum billable code as 99213) rendered between 4-2-02 and 6-19-02 were medically necessary. The IRO concluded that therapy beyond 6-19-02. office visits dated 4-23-02, 4-24-02, 4-29-02 and 6-5-02, Delorme muscle testing and Dynatron Human Performance Test were not 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(r)(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 30, 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
4-18-02	99215	\$125.00	\$0.00	N	\$103.00	Evaluation & Management GR (IV)(B)	Office visit report documents level of service billed per MFG, reimbursement of \$103.00 is recommended.
4-18-02	99080-73	\$15.00	\$0.00	F	\$15.00	Rule 129.5(d)	Claimant's work status did not change, therefore, billing for report is not in accordance to Rule 126.9(d)
4-18-02	95851	\$40.00	\$0.00	G	\$36.00	Medicine GR (I)(E)(4)	Lumbar ROM testing is not global to office visit rendered on this date; therefore, reimbursement of \$36.00 is recommended.

4-18-02	97750MT	\$172.00	\$0.00	G	\$43.00/ body area	Medicine GR (I)(E)(3) and (I)(D)	Muscle testing is not global to office visit rendered on this date; therefore, reimbursement for muscle testing of spine is recommended of \$43.00.
TOTAL		\$794.75					The requestor is entitled to reimbursement of \$182.00.

This Decision is hereby issued this 30th day of December 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 4-2-02 through 10-17-02 in this dispute.

This Order is hereby issued this 30th day of December 2003.

Roy Lewis, Supervisor
 Medical Dispute Resolution
 Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

Date: 06/12/2003

RE: MDR Tracking #: M5-03-1797-01
 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. 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

According to the documentation supplied, the claimant was at work on ___ when he injured his back shoveling sand and blocks out of his truck. He was seen at ___, but later sought treatment with Dr. ___. The claimant began chiropractic care and was taken off of work. The claimant had several functional capacity exams performed on a regular basis, which still did not put him at his necessary work level. On 06/21/2001 the claimant had a MRI performed which revealed a disc bulge at L3/4 and at L4/5. Dr. ___, performed lumbar surgery in January of 2002. The notes revealed that the claimant was released to therapy on 04/11/2002 and therapy was begun on 04/24/2002. Active and passive care was utilized until 02/11/2003.

Requested Service(s)

Please review and address the medical necessity of the outpatient services rendered 04/02/2002 – 10/17/2002 including all chiropractic treatments and services.

Decision

I disagree with the insurance company and agree with the treating doctor that the therapy and monthly office visits (04/18/2002 and 06/04/2002 with the maximum billable code as 99213) rendered between 04/02/2002 – 06/19/2002 were medically necessary. I agree with the insurance company that the therapy rendered beyond 06/19/2002, office visits dated 04/23/2002, 04/24/2002, 04/29/2002 and 06/05/2002, Delorme muscle testing and Dynatron Human Performance Test were not medically necessary.

Rationale/Basis for Decision

The post-surgical note from Dr. ___ on 04/11/2002 stated that the claimant was released for physical therapy. Once therapy began (04/24/2002) it is considered medically necessary for therapy up to 8 weeks to help restore the claimant's range of motion and to continue to reduce pain. The documentation supplied did not validate the need for the Dynatron test or the Delorme muscle testing. Since the diagnosis was already known when the claimant returned from surgery there would be no need for in depth evaluation and management codes. The 99213 code is adequate and is supported by the supplied documentation. Again, since the diagnosis was already known, there is no need for excessive and consecutive billing of 99213 specifically on 04/23/2002, 04/24/2002, 04/29/2002 and on 06/05/2002. Monthly evaluations were needed to help monitor and report progress and were necessary on 04/18/2002 (maximum of 99213) and on 06/04/2002.