

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

SOAH DOCKET NO. 453-05-2761.M5

Amended MDR Tracking Number: M5-03-1804-02 (**Previously M5-03-1804-01**)

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 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a dispute resolution review was conducted by the Medical Review Division regarding a medical payment dispute between the requestor and the respondent named above. This dispute was received on 3-27-03.

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective September 1, 1993 and Commission Rule 133.305 titled Request for Medical Dispute Resolution, a dispute resolution review was conducted by the Medical Review Division

This AMENDED FINDINGS AND DECISION supersedes M5-03-1804-01 rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision of 1-26-04 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 2-18-04. The Requestor appealed the Decision to an Administrative Hearing on 2-3-04. The Decision was withdrawn because the requestor appealed the rationale for denying 97545 and 97546.

I. DISPUTE

Whether there should be reimbursement for work hardening program, myofascial release, team conference, TENS, SSEP testing, office visits, therapeutic procedures, manual traction and joint mobilization rendered from 6-12-02 through 1-21-03.

II. FINDINGS

The IRO concluded that the requested treatment 6/12/02 through 7/25/02 except for CPT code 99213 and 97110 were medically necessary. Treatment after 7/25/02 was not 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.

DOS	CPT CODE	Billed	MAR\$ (Maximum Allowable Reimbursement)	IRO Found MN
6-12-02 6-17-02 6-28-02 7-2-02 7-9-02 7-10-02 7-12-02 7-15-02 7-16-02 7-19-02 7-23-02 7-24-02	99213MP	\$48.00	\$48.00	EOBs sent by Carol Kelley indicate dates of service 6-12-02 through 7-19-02 were paid. Payment for 7-23 and 7-24-02 of (\$48.00 X 2) \$96.00 is recommended.
6-14-02	95851	\$36.00	\$36.00	\$36.00 paid
7-15-02 7-16-02 7-22-02 7-23-02	97265	\$43.00	\$43.00	7-15, 7-16 and 7-22-02 indicate that they were paid. Payment of \$43.00 is recommended for 7-23-02.
7-15-02 7-16-02 7-23-02	97250	\$43.00	\$43.00	7-15 and 7-16- 02 indicate that they were paid. Payment of \$43.00 is recommended for 7-23-02.
7-15-02 7-16-02 7-23-02	97122	\$35.00	\$35.00	7-15 and 7-16- 02 indicate that they were paid. Payment of \$35.00 is recommended for 7-23-02.
7-16-02	E0730	\$499.00	DOP	\$499.00 EOB indicates \$495.00 was paid.
TOTAL				\$217.00

On this basis, the total amount recommended for reimbursement (\$217.00) 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 7-10-03, 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:

No EOB: Neither party in the dispute submitted EOBs for some of the disputed services identified below. The requestor submitted a copy of a signed certified green card that supports bills were submitted for audit. 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
7-26-02	99213MP	\$48.00	\$0.00	F	\$48.00	Medicine GR (I)(B)(1)(b)	MAR reimbursement of \$48.00 is recommended.
7-31-02	97110 (4)	\$140.00	\$0.00	No EOB	\$35.00 / 15 min X 4 = \$140.00	Medicine GR (I)(A)(9)(b)	MAR reimbursement of \$140.00 is recommended.
11-15-02 11-18-02 11-19-02 12-18-02 12-19-02 12-23-02 12-24-02	97545WH	\$128.00	\$0.00	Z	\$64.00 / hr	CARF Accreditation on 10-15-02 Rule 134.600(h)(9)	Preauthorization is not required, MAR reimbursement of \$128.00 X 7 dates = \$896.00.
11-15-02 11-18-02 11-19-02 12-18-02 12-19-02 12-23-02 12-24-02	97546WH	\$384.00	\$0.00	Z	\$64.00 / hr	CARF Accreditation on 10-15-02 Rule 134.600(h)(9)	Preauthorization is not required, MAR reimbursement of \$384.00 X 7 dates = \$2688.00.
12-13-02	99361	\$53.00	\$0.00	G	\$53.00	Medicine GR (II)(A)	Team conference is global to work hardening program.
12-20-02	97545WH	\$128.00	\$0.00	No EOB	\$64.00 / hr	Medicine GR (II)(E)	MAR reimbursement for work hardening of \$128.00 is recommended.
12-20-02	97546WH	\$384.00	\$0.00	No EOB	\$64.00 / hr		MAR reimbursement for work hardening of \$384.00 is recommended.
TOTAL							The requestor is entitled to reimbursement of \$4284.00 .

III. AMENDED DECISION & ORDER

IV.

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 6-12-02 through 1-21-03 in this dispute.

The above Amended Findings, Decision and Order are hereby issued this 1st day of November 2004.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

July 3, 2003

Re: IRO Case # M5-03-1804-01

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a Doctor of Chiropractic who is licensed by the State of Texas. He or she has signed a certification statement attesting 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 referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient injured his lower back on ___ when the wind caught the ladder he was moving. The patient was initially seen by an MD on 5/16/02. The patient changed to his current treating doctor on 6/11/02 and began chiropractic treatment.

Requested Service(s)

Chiropractic treatments 6/12/02 – 1/21/03

Decision

I disagree with the carrier's decision to deny the requested treatment 6/12/02 through 7/25/02 except for CPT code 99213 and CPT code 97110.

I agree with the carrier's decision to deny the requested treatment after 7/25/02 and CPT codes 99213 and 97110.

Rationale

Six weeks of chiropractic treatment is reasonable for the patient's injury. Routine use of CPT code 99213 is not reasonable as it is intended for reevaluation. The documentation provided related to CPT code 97110 lacks description of specific exercises and the patient's responses to those exercises.

As of 8/1/02 the patient's pain scale was still 4/10 as it was initially. Treatment was extensive throughout the dates in dispute. The patient should have shown some relief of symptoms or improved function after six weeks of treatment, and according to the documentation provided, he had not done so. Treatment of an injury should be provided in the most appropriate, least intensive setting, be cost effective and show objectively measured functional gains. The documentation provided does not indicate that any of the above criteria were met, or that the patient's treatment protocol was directed at progression for return to work. Repeatedly, throughout the documentation, the patient's pain scale is rated at 4/10. Objective findings are minimal, lacking specific, quantifiable measurements and findings to support treatment. On 1/21/03 the patient's pain scale was still 4/10, six months after treatment was initiated.

The documentation presented is very limited, vague, computer generated and monotonous, providing very little useful information to support continued treatment.

Treatment as of 8/1/02 was inappropriate and probably iatrogenic, resulting in doctor dependency.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Sincerely,