

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

**SOAH DOCKET NO: 453-04-3712.M5**

MDR Tracking Number: M5-03-1914-01

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, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 3-3-03.

The IRO reviewed office visits w/manipulations, myofascial release, joint mobilization, therapeutic procedure, neuromuscular re-education, and electrical stimulation rendered on 3-19-02, 6-3-02, 6-4-02 through 7-24-02, 7-31-02 through 10-28-02, and 10-31-02 through 12-5-02 that were denied as unnecessary medical.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. 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. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

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 August 7, 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\$ (Max. Allowable Reimbursement)	Reference	Rationale
3-18-02	99204	106.00	0.00	No	106.00	96 MFG E/M GR VI A; DME GR; Med GR (CPT descriptor)	Neither party submitted EOBs; therefore, this review will be per the MFG. Relevant information was not submitted to support
	95851	36.00		EOB	36.00		
	E0230	20.00			DOP		
3-19-02	99080-53	15.00			NA		
3-21-02		50.00			DOP		

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
5-30-02 7-29-02 10/29/02	99080 99213- MP 97250 97265 97110 97112 97014	48.00x3 43.00x3 43.00x3 35.00x3 35.00x3 15.00x3			48.00 43.00 43.00 35.00 ea 15 min 35.00 ea 15 min 15.00	and Rule 124.5; Med GR I B 1 b and I A 10 a	<p>delivery of services for 3-18-02 through 3-21-02 and 10-29-02.</p> <p>Form TWCC-53, Change of Treating Doctor dated 3-19-02 was submitted; however, per rule, this form is not reimbursable.</p> <p>The charge for physical medicine treatment shall not exceed any combination of four modalities as referenced in the rule. The table of disputed services supports five modalities; therefore, all codes will be considered except 97014. Daily notes support services rendered on 5-30-02 and 7-29-02. Recommend reimbursement of \$338.00.</p> <p>See RATIONALE below for code 97110.</p>
3-18-02 3-25-02 3-26-02 3-28-02 4-1-02 to 4-4-02 4-8-02 to 4-11-02 4-15-02 to 4-18-02 4-22-02 to 4-25-02 4-29-02	72100- WP 99213- MP 97250 97265 97110 97112 97014	80.00 48.00x32 43.00x32 43.00x32 35.00x32 35.00x32 15.00x32	0.00	E	56.00 48.00 43.00 43.00 35.00 ea 15 min 35.00 ea 15 min 15.00	96 MFG Rad GR I A 2; Med GR I B 1 b and I A 10 a	<p>Carrier denied as "E – this claim is not compensable". "E" was the only issue raised by the carrier. Requestor submitted a Contested Case Hearing Decision and Order dated 12-11-02 that found the claim compensable. Therefore, this review will be per the MFG only.</p> <p>Radiology report dated 3-18-02 support services rendered. Recommend reimbursement of \$56.00.</p>

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
to 5-2-02 5-6-02 to 5-9-02 5-14-02 to 5-16-02 5-28-02 7-25-02							<p>The charge for physical medicine treatment shall not exceed any combination of four modalities as referenced in the rule. The table of disputed services supports five modalities; therefore, all codes will be considered except 97014. Daily notes support services rendered on 3-25-02 through 7-25-02 except for code 97112 on 4-30-02. Recommend reimbursement of \$5373.00</p> <p>See RATIONALE below for code 97110.</p>
7-24-02	97110 97112 97014	35.00 35.00 15.00	0.00	E	35.00 ea 15 min 35.00 ea 15 min 15.00	96 MFG Med GR I A 10 a	<p>Carrier denied as "E – this claim is not compensable". "E" was the only issue raised by the carrier. Requestor submitted a Contested Case Hearing Decision and Order dated 12-11-02 that found the claim compensable. Therefore, this review will be per the MFG only.</p> <p>The charge for physical medicine treatment shall not exceed any combination of four modalities as referenced in the rule. The table of disputed services supports five modalities, two of which have been determined by the IRO. Therefore, only 97110 and 97112 will be considered. Daily notes</p>

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
							support services rendered on 7-24-02. Recommend reimbursement of \$35.00.  See RATIONALE below for code 97110.
4-23-02	95935-27	742.00	0.00	E	53.00 per study (F - max 4 units, H - max 2 units (lower extrem)	96 MFG Med GR IV B 2. c. & d., D, and CPT descriptors	Carrier denied as "E – this claim is not compensable". "E" was the only issue raised by the carrier. Requestor submitted a Contested Case Hearing Decision and Order dated 12-11-02 that found the claim compensable. Therefore, this review will be per the MFG only.  Technical report dated 4-23-02 supports testing. Per rule, the maximum reimbursement for H&F reflex studies is six units; therefore, recommend reimbursement of \$222.60 for H&F reflex study, \$122.50 for Somatosensory testing, and \$1164.80 for NCV studies.
	95925-27	350.00			175.00 one or more nerves		
	95904-27	128.00			64.00 each nerve		
	95900-27	384.00			64.00 each nerve  (Technical component (-27) is reimbursed @ 70% per rule)		
TOTAL		9661.00	0.00				The requestor is entitled to reimbursement of \$7311.90.

**RATIONALE:** Recent review of disputes involving CPT code 97110 by the Medical Dispute Resolution section as well as analysis from recent decisions of the State Office of Administrative Hearings 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 (MRD) has reviewed the matters in light of the Commission requirements for proper documentation.

The MRD declines to order payment for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one treatment.

The above Findings and Decision are hereby issued this 21st day of January 2004.

Dee Z. Torres  
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 3-19-02 through 12-5-02 in this dispute.

This Order is hereby issued this 21st day of January 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dzt

January 27, 2004

Rosalinda Lopez  
Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

Re: Medical Dispute Resolution  
MDR #: M5-03-1914-01  
IRO Certificate No.: IRO 5055

### **REVISED REPORT Date of Injury corrected in Clinical History**

Dear Ms. Lopez:

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Certified in Chiropractic Medicine.

**Clinical History:**

This female claimant injured her lumbar spine as a result of repetitive lifting. Initial examination on 02/21/02 resulted in the diagnosis of lumbar sprain/strain complicated by anterolisthesis of L-5 on S-1. The treating doctor reconditioned the patient's lumbar spine over a seven-month period of time, apparently achieving results that were satisfactory to the patient.

**Disputed Services:**

Office visits w/manipulations, myofascial release, joint mobilization, therapeutic procedure, neuromuscular re-education, electrical stimulation, work status report, and manual traction on the following dates of service: 03/19/02, 06/03/02, 06/04-07/24/02, 07/31/02-10/28/02, and 10/31/02-12/05/02.

**Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the services in question were medically necessary in this case.

**Rationale:**

The treating doctor's rationale for treatment was well documented. The documentation of individual procedures and progress achieved in each area was very lacking, but the translated statements from the patient commenting on her diminishing pain and improving functionality prove compelling enough to compensate. Injuries to the lumbar spine are difficult to fully resolve, especially when complicated by underlying biomechanical imbalance.

The general source of criteria utilized in reaching this decision is primarily derived from 14 years of daily chiropractic practice, firsthand clinical observation, and constant interaction with other providers treating similar types of cases. Other sources include many of those enumerated in the treating doctor's appeal narrative. These are adequately documented in the file and, as such, the reviewer did not reiterate.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.