

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER:  
SOAH DOCKET NO. 453-04-2735.M5**

MRD Tracking Number: M5-03-1936-01

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 12-23-02.

The IRO reviewed chiropractic treatments rendered from 3-14-02 through 5-9-02 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. 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.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

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

On June 26, 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 | MARS (Maximum Allowable Reimbursement) | Reference              | Rationale   |
|---------|----------------|---------------|---------------|-----------------|--|------------------------|---|
| 2-18-02 | 99070<br>99070 | 18.33<br>6.00 | 11.00<br>0.00 | M<br>N          | DOP                                    | 96 MFG, GI, III and IV | No documentation was submitted to support the large cryopack and OTC muscle relaxers. No reimbursement recommended. |

| DOS     | CPT CODE                | Billed                  | Paid           | EOB Denial Code | MARS (Maximum Allowable Reimbursement) | Reference                | Rationale   |
|---------|-------------------------|-------------------------|----------------|-----------------|--|--------------------------|---|
| 3-25-02 | 97265<br>97250<br>97150 | 43.00<br>43.00<br>27.00 | 0.00           | F<br>F<br>F     | 43.00<br>43.00<br>27.00                | 96 MFG<br>Med GR 10<br>A | Carrier denied as "F – PT exceeding 2 hrs max/session requires DOP; 3 hrs total max/session GR I A 10." Patient office visit report dated 3-25-02 supports services rendered. The MFG allows for max two hrs for timed codes and max any four modalities, timed or untimed. None of these codes are timed codes. Recommend reimbursement of \$113.00. |
| 3-27-02 | 97150                   | 27.00                   | 0.00           | F               | 27.00                                  | 96 MFG<br>Med GR 10<br>A | Same as above. Patient office visit report dated 3-27-03 supports service rendered. Recommend reimbursement of \$ 27.00.  |
| 4-3-02  | 97265<br>97250<br>97150 | 43.00<br>43.00<br>27.00 | 0.00           | F               | 43.00<br>43.00<br>27.00                | 96 MFG<br>Med GR 10<br>A | Carrier denied as "F – PT exceeding 2 hrs max/session requires DOP; 3 hrs total max/session GR I A 10." Patient office visit report dated 4-3-02 supports services rendered. The MFG allows for max two hrs for timed codes and max any four modalities, timed or untimed. None of these codes are timed codes. Recommend reimbursement of \$113.00.  |
| 4-5-02  | 97265<br>97250<br>97150 | 43.00<br>43.00<br>27.00 | 0.00           | F               | 43.00<br>43.00<br>27.00                | 96 MFG<br>Med GR 10<br>A | Same as above. Patient office visit report dated 4-5-02 supports services rendered. Recommend reimbursement of \$113.00.  |
| 4-22-02 | 97110                   | 280.00                  | 175.00         | F               | 35.00 ea 15 min                        |                          | Same as above; however, see <b>RATIONALE</b> below for 97110. No additional reimbursement recommended.  |
| 4-24-02 | 97110                   | 280.00                  | 175.00         | F               | 35.00 ea 15 min                        |                          | Same as above.  |
| 4-29-02 | 97110<br>97150          | 280.00<br>27.00         | 210.00<br>0.00 | F<br>F          | 35.00 ea 15 min<br>27.00               |                          | Same as above for 97110. For code 97150, patient office visit reports dated 4-29-02 and 5-1-02 support services rendered. Recommend reimbursement of \$27.00 x 2 = \$54.00.   |
| 5-1-02  | 97110<br>97150          | 280.00<br>27.00         | 210.00<br>0.00 | F               | 35.00 ea 15 min<br>27.00               |                          |   |
| TOTAL   |                         | 1564.33                 | 781.00         |                 |  |                          | The requestor is entitled to reimbursement of \$420.00  |

**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 because the daily notes did not indicate whether the doctor was conducting exclusively one-to-one sessions with the claimant, the notes did not clearly indicate activities that would require a one-on-one therapy session, the notes did not indicate the type of activity/therapy, the notes did not reflect the need for one-on-one supervision and there was no statement of the claimant's medical condition or symptoms that would mandate one-on-one supervision for an entire session or over an entire course of treatment.

### **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 2-18-02 through 5-19-02 in this dispute.

This Order is hereby issued this 17th day of December, 2003.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

### NOTICE OF INDEPENDENT REVIEW DECISION

June 19, 2003

MDR Tracking #: M5-03-1936-01  
IRO Certificate #: IRO4326

\_\_\_ 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 rendered 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 matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. \_\_\_ health care professional 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

This patient is a nurse working in home health. While helping her client in the bathroom on \_\_\_\_, the client fell and the nurse injured her back and left shoulder while breaking the patient's fall. She started seeing a chiropractor for treatments and physical therapy.

### Requested Service(s)

Chiropractic treatments rendered from 03/14/02 through 05/09/02

### Decision

It is determined that the chiropractic treatments rendered from 03/14/02 through 05/09/02 were not medically necessary to treat this patient's condition.

### Rationale/Basis for Decision

Typical standards of care within the chiropractic profession suggest that a non-complicated soft tissue injury should be treated for 6-8 weeks maximum with ongoing objective signs of progress. The documentation demonstrates this to be a non-complicated soft tissue injury. The medical record does not suggest that any co-morbidities or complicating factors exist that would naturally delay recovery. For care to extend beyond the suggested 6-8 weeks, ongoing significant progress should be documented. The notations in the record state a decrease in subjective pain levels but it is not clear that any objective comparative data was compiled prior to 03/14/02.

From a retrospective standpoint, it is not apparent that objective progress beyond what would be expected from the natural history of this particular condition was being achieved from the course of care being offered the patient. Comparative data compiled from physical performance evaluations dated 03/14/02 through 05/09/02 indicates minimal objective progress. Left shoulder ranges of motion (ROM) increased 5-10 degrees maximum. Similar minimal increases were observed in the lumbar spine. Overall, physical capacity of the patient increased minimally. Moreover, the documented subjective pain levels dropped from the inception of treatment until 03/14/02 at which time the pain leveled off and in fact regressed. This again supports the standard that maximum progression from chiropractic care and passive modalities would be expected over the course of the first two months. Therefore, it is determined that the chiropractic treatments rendered from 03/14/02 through 05/09/02 were not medically necessary.

Sincerely,