

MDR Tracking Number: M5-03-2035-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 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 4-17-03.

The IRO reviewed chiropractic treatments (office visits, phonophoresis and phonophoresis supplies) from 5-1-02 to 5-20-02.

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.

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

On 7-8-03, 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.

CPT codes 99213, 97139-PH, 99070-PH, 97113, 97124, 99212, and 97265 billed on 5-7-02 (\$48.00), 5-8-02 (\$338.00), 5-9-02 (\$381.00), 5-13-02 (\$381.00), 5-15-02 (\$42.00), and 5-20-02 (\$173.00) were denied as "L – not treating doctor approved payment." TWCC records indicate that a TWCC-53 was approved on 4-25-02 for change of treating doctor to \_\_\_\_, the requestor. Relevant information supports delivery of service. Recommend reimbursement of  $\$48.00 + \$338.00 + \$381.00 + \$381.00 + \$42.00 + \$173.00 = \$1,363.00$ . CPT code 97110 billed on 5-1-02 for \$140.00 was paid \$112.00 with denial code "F" and "S". No additional reimbursement recommended.

**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 additional 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.

CPT codes 99213 billed on 5-10-02 and 99212 billed on 5-15-02 were denied as “F – not the treating doctor.” TWCC-53 was approved on 4-25-02 for change of treating doctor to \_\_\_\_, the requestor. Recommend reimbursement of \$48.00 + \$32.00 = \$80.00.

CPT codes 97113, 97265, and 97124 billed on 5-16-02 were denied as “F – not the treating doctor.” TWCC-53 was approved on 4-25-02 for change of treating doctor to Robert S. Howell, the requestor. Recommend reimbursement of \$208.00 + \$43.00 + \$56.00 = \$307.00.

This Decision is hereby issued this 18<sup>th</sup> day of June 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 Order is applicable for dates of service 5-7-02 through 5-20-02 in this dispute.

This Order is hereby issued this 18<sup>th</sup> day of June 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

**IRO Certificate #4599**

**NOTICE OF INDEPENDENT REVIEW DECISION**

June 27, 2003

**Re: IRO Case # M5-03-2035-01**

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, and who also is a Certified Strength and Conditioning Specialist. 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 her neck and lower back on \_\_\_ while lifting a bundle of material weighing about 50 pounds. She was treated with physical therapy from 3/27/02 through 4/22/02 without improvement. She then changed her doctors, and her first visit with the chiropractor whose care is in dispute was on 4/26/02.

Requested Service(s)

Chiropractic treatments 5/1/02 to 5/20/02

### Decision

I agree with the carrier's decision to deny the requested treatment

### Rationale

One M.D. who works with the treating chiropractor noted on 5/7/02 that the patient was in too much pain to participate in the aquatic therapy prescribed by a chiropractor who also works with the treating chiropractor. Yet on 5/9/02 aquatic therapy was resumed. This was a direct contradiction to the M.D.'s prescribed treatment protocol of medication for five to seven days and then participation in conservative therapy. The SOAP notes state that the patient was in moderate pain with positive Maximum Compression Test and Kemp's Test, yet aquatic therapy was initiated. In fact, the patient was able to swim some 1700 feet in three different exercises in 18 minutes. This was followed by intensive stretching and exercise for approximately one hour. As a certified strength and conditioning specialist, and practicing doctor of chiropractic for almost 20 years, it is my opinion that this would be a direct contraindication to proper treatment protocol and was probably iatrogenic, thus causing extended costly treatment that was of no benefit to the patient. Treatment should be provided in the most appropriate, least intensive setting. Intensive aquatic therapy, phonophoresis, massage and joint manipulation is far too intense for a patient with a pain scale of 6/10, moderate to severe muscle spasms and several positive orthopedic tests. The patient's subjective complaints are also questionable. How could this patient swim 1700 feet and exercise for over an hour, yet state that her pain is a 6/10 and her daily life has been impaired. The documentation presented for this review failed to show objective, quantifiable findings to support treatment. The documentation is voluminous, monotonous, computer generated and fails to show how the services in dispute were necessary.

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

Sincerely,