MDR Tracking Number: M5-03-2335-01

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 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 03-22-03.

The IRO reviewed therapeutic exercises, office visits with manipulations, ultrasound therapy, myofascial release rendered on 07-02-02 through 12-27-02 that was 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 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 08-28-03, 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:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$	Reference	Rationale
6-27-02 through 12-27-02 (11 DOS)	99213-MP	528.00 ($48.00 per unit X 11 DOS)	$0.00	No EOB	$48.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Recommend reimbursement in amount of $528.00 ($48.00 X 11 DOS)
9-24-02 through 12-6-02 (8 DOS)	97035	$176.00 ($22.00 per unit X 8 DOS)	$0.00	No EOB	$22.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Recommend reimbursement in amount of $176.00 ($22.00 X 8 DOS)

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$	Reference	Rationale
7-5-02 through 12-6-02 (9 DOS)	97250	$387.00 ($43.00 per unit X 9 DOS)	$0.00	No EOB	$43.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Recommend reimbursement in amount of $387.00 ($43.00 X 9 DOS)
12-10-02 through 12-20-02 (5 DOS)	97545	$512.25 ($102.25 2 units X 5 DOS)	$0.00	No EOB	$64.00 per hour	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-10-02 through 12-20-02 (5 DOS)	97546	$832.00 ($64.00 per unit X 13 units)	$0.00	No EOB	$64.00 per hour	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
6-27-02 through 12-27-02 (14 DOS)	97110	$1,050.00 ($35.00 per unit X 30 units)	$0.00	No EOB	$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement recommended.
TOTAL		$3,485.25	$0.00		$3,613.00		The requestor is entitled to reimbursement in the amount of $1,091.00

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 for code 97110 because the daily notes did not clearly delineate the severity of the injury that would warrant exclusive one-to-one 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 8-28-01 through 12-28-01 in this dispute.

This Order is hereby issued this 16th day of March 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Re: MDR #: M5-03-2335-01

___ 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 male claimant injured his back in a work-related accident on ___. Treatment included chiropractic, physical therapy, steroid injections, and pain medications. An MRI revealed an 8.0 mm disk herniation on the right. This disk herniation was creating canal stenosis and a right neuroforaminal stenosis. The records indicate injections were given to the left sacroiliac joint and left piriform.

Disputed Services:
Therapeutic exercises, office visits with manipulations, ultrasound, myofascial release. Dates of service: 7/2/02, 7/5/02, 9/13/02, 9/24/02, 9/27/02 thru 10/10/02, 10/16/02, 10/24/02, 11/08/02, 11/15/02, 11/20/02, 11/26/02, 12/5/02, 12/6/02 and 12/27/02.

Decision:
The reviewer agrees with the determination of the insurance carrier in this case. The disputed services were not medically necessary.

Rationale:
The patient's injuries occurred on ___. The research indicates there are three phases of healing and repair: acute, repair, and remodeling. The dates of service in question fall well into the latter phase. The severity of the injury would indicate an extended recovery tie, but by 07/02/02 the patient would have reached a point where other therapies needed to be investigated.

The use of cryotherapy and ultrasound on the same visit is unusual. Cold and heat therapies are best used at home and are not often used in combination. The patient can use these therapies as needed at home. Exercise rehab may provide some help at this late point after the injury. However, it would be appropriate at this time in treatment to

instruct the patient in a self-directed home-based program to maintain strength and flexibility. The records also indicate that there are no substantial changes in the condition, and there is no Oswestry-type pain scale provided for comparison.

In summary, the treatment provided to the patient was not medically necessary, given the history and date of injury. Mercy Guidelines indicate that passive modalities at this point in care offer little value, and there is no indication that exercise rehab offered in the office would have been required over a home exercise program.

According to Texas Labor Code 408:021(a), an employee is entitled to the care reasonably required in association with their injury and the treatment thereof. If the patient's condition is not stable, the care to maintain and promote healing is medically necessary.

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.

Sincerely,