

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 05-27-03.

The IRO reviewed office visits, muscle testing, therapeutic exercises, range of motion measurements, chiropractic physical therapy rendered from 09-25-02 through 12-24-02 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity for range of motion measurements, physical performance test, chiropractic physical therapy from 11-05-02 to 12-24-02, and office visits from 11-05-02 to 12-24-02. On this basis, the total amount recommended for reimbursement (\$152.00) 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.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity for office visit on 09-25-02 and therapeutic exercise 1 unit on 10-03-02 and muscle testing on 11-18-02. 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.

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 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	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
12-26-02	97545WH-AP (2 units)	\$128.00	\$102.40	F	\$64.00 per unit	MFG MGR (II) (C) & (E)	Soap notes confirm delivery of service. Additional reimbursement recommended \$25.60
	97546WH-AP	\$384.00	\$307.20	F	\$64.00 per unit		Soap notes confirm delivery of service. Additional reimbursement recommended \$76.80 (\$384.00- \$307.20)

01-02-03	97545WH -AP (2 units)	\$128.00	\$102.40	F	\$64.00 per unit	MFG MGR (II) (C)& (E)	Soap notes confirm delivery of service. Recommended Reimbursement \$25.60
	97546WH (6 units)	\$384.00	\$307.20	F	\$64.00 per unit		Soap notes confirm delivery of service. Recommended Reimbursement \$76.80
01-06-03	97545WH (2 units)	\$128.00	\$102.40	F	\$64.00 per unit	MFG MGR (II) (C)& (E)	Soap notes confirm delivery of service. Recommended Reimbursement \$25.60
	97546WH (6 units)	\$384.00	\$307.20	F	\$64.00 per unit		Soap notes confirm delivery of service. Recommended Reimbursement \$76.80
01-07-03	97545WH (2 units)	\$128.00	\$0.00	No EOB	\$64.00 per unit	MFG MGR (II) (C)& (E)	Soap notes confirm delivery of service. Recommended Reimbursement \$128.00
	97546WH (6 units)	\$384.00	\$0.00		\$64.00 per unit		Soap notes confirm delivery of service. Recommended Reimbursement \$384.00
01-08-03	97545WH (2 units)	\$128.00	\$102.40	F	\$64.00 per unit	MFG MGR (II) (C)& (E)	Soap notes confirm delivery of service. Recommended Reimbursement \$25.60
	97546WH (6 units)	\$384.00	\$307.20	F	\$64.00 per unit		Soap notes confirm delivery of service. Recommended Reimbursement \$76.80
01-09-03, 01-10-03, 01-14-03, 01-16-03, 01-17-03, 01-21-03, 01-23-03, 02-12-03, 02-28-03	97545WH (2 units for 9 date service total of 18 units)	\$128.00 per date of service	\$0.00	A	\$64.00 per unit	MFG MGR (II) (C)& (E)	Advisory 2001-14 provides an exemption from preauthorization for work hardening or work conditioning programs, if provided by a facility that is CARF accredited. C ___ is CARF accredited therefore, recommended reimbursement \$1152.00 (\$64.00 for 18 units for 9 dates of service)
01-09-03, 01-10-03, 01-14-03, 01-16-03, 01-17-03, 01-21-03, 01-23-03, 02-12-03, 02-28-03	97546WH (6 units for 9 dates of service total of 54 units)	\$384.00 per date of service	\$0.00	A	\$64.00 per unit		Advisory 2001-14 provides an exemption from preauthorization for work hardening or work conditioning programs, if provided by a facility that is CARF accredited. ___ is CARF accredited therefore, recommended reimbursement \$3456.00 (\$64 for 54 units for 9 dates of service)
01-10-03	97750FC	\$200.00	\$0.00	F			Soap notes confirm delivery of service. Recommended reimbursement \$200.00
01-30-03	97546WH	\$384.00	\$0.00	No EOB	\$64.00 per unit	MFG MGR (II) (C)& (E)	Soap notes confirm delivery of service. Recommended reimbursement \$384.00

	97545WH (2 units)	\$128.00	\$0.00		\$64.00 per unit		Soap notes confirm delivery of service. Recommended Reimbursement \$128.00	
02-20-03	97546WH (6 units)	\$384.00	\$244.00	A	\$64.00 per unit	MFG MGR (II) (C)& (E)	Advisory 2001-14 provides an exemption from preauthorization for work hardening or work conditioning programs, if provided by a facility that is CARF accredited. ___ is CARF accredited therefore, recommended reimbursement \$140.00	
TOTAL		\$8072.00						The requestor is entitled to reimbursement of \$ 6381.60

This Decision is hereby issued this 2<sup>nd</sup> day of March 2004.

Georgina Rodriguez  
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 09-25-02, 10-03-02, 11-18-02, and 12-26-02 through 02-28-03 in this dispute.

This Order is hereby issued this 2<sup>nd</sup> day of March 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

**NOTICE OF INDEPENDENT REVIEW DECISION – AMENDED**

**Date:** February 11, 2004

**RE: MDR Tracking #:** M5-03-2390-01  
**IRO Certificate #:** 5242

\_\_\_ 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 proposed 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 Chiropractor physician reviewer. The Chiropractor physician reviewer 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**

The claimant is a 26-year-old Hispanic male, right hand dominant, 66 inches tall, weighs approximately 180 pounds, who reported that he injured his lower back while on the job lifting 60-70 pound table (corner work surface) on \_\_\_\_\_. Claimant initiated care at \_\_\_\_\_ the following day. He returned to \_\_\_\_\_ on 9/25/02 and was diagnosed with lumbar radiculopathy and a left-sided lumbar strain. Physical examination (PE) was essentially within normal limits, excluding decreases ranges of motion (ROM). The claimant sought care under the direction of \_\_\_\_\_ on 09/25/02 who reported left leg radiculopathy, normal lumbar ROM with 90° straight leg raise (SLR), and an essentially normal PE excluding lumbar muscle spasms. The claimant was referred to \_\_\_\_\_ for chiropractic care at \_\_\_\_\_ on 09/25/02 who reported left lower extremity radiculopathy, normal sensory and motor findings to include strength, and decreased lumbar ROM with a positive 20° straight leg raise test. Claimant initiated active and passive chiropractic care for approximately 21-sessions from 09/27/02-10/31/02. MRI dated 10/02/02 revealed mild degenerative disc desiccation at T12-L1 without evidence of disc displacement or spinal or foraminal stenosis. Mild degenerative Schmorl nodes were present at the T12-L1 level. There was no evidence of intervertebral disc disease, spinal foraminal stenosis, or other noted abnormal pathology present on MRI for the rest of the lumbar spine. Chiropractic passive and active therapy continued for approximately 20-sessions through the month of November 2002. Active chiropractic care continued for 10 additional sessions until late December when a work hardening program (WHP) was initiated on 12/26/02 for 8-weeks.

### **Requested Service(s)**

CPT code 99203 on: 09/25/02.  
CPT code 97110 times 1-unit on: 10/03/02.  
CPT code 97750 on: 11/14/02.  
CPT code 97750MT on: 11/18/02.  
CPT code 95851 on: 11/27/02, 12/18/02.  
Physical Therapy from 11/05/02 to 12/24/02 for 19 sessions.  
Office visits from 11/5/02 to 12/24/02

### **Decision**

CPT code 99203 on 09/25/02 was reasonable and necessary (R/N).  
CPT code 97110 times 1-unit on 10/03/02 was R/N.  
CPT 97750MT on 11/18/02 was R/N.  
CPT code 97750 on 11/14/02 was not R/N.  
CPT code 95851 on 11/27/02 and 12/18/02 were not R/N.  
Chiropractic physical therapy from 11/05/02 to 12/24/02 (19 sessions) were not R/N.  
Office visits from 11/5/02 to 12/24/02 were not R/N.

## **Rationale/Basis for Decision**

97750 performed on 11/14/02 was not reasonable and necessary as I could not find any clinical documentation of this procedure other than an invalid cardiovascular treadmill evaluation that reported a decrease in the claimant's active heart rate as compared to the resting heart rate. Several outcome assessment questionnaires were completed as well. CPT code 95851 on 12/18/02 provided inconsistent clinical data that reported 100 degrees of lumbar flexion and 100 degrees of extension, and no heart rate assessment was performed to validate maximal effort during the testing. A temperature gradient testing was performed on 12/18/02 as well. It should be noted that this study is considered investigational and is a highly scrutinized non-diagnostic study; results are inconsistent with previous tests performed on this claimant, and the results do not provide any diagnostic or relevant clinical supporting documentation for this claim. CPT code 95851 on 11/27/02 was not reasonable or necessary; the claimant had strength examination on 11/18/02 and range of motion testing was performed on 11/12/02. Ordering a physical performance evaluation in near proximity of recent and similar examinations/tests without altering the claimant's treatment plan concurrently are previously and/or without supporting documentation is not necessary. The claimant has completed approximately 135-units (33.75 Hours) of one-on-one or group active rehabilitation from 09/27/03 to 11/04/03. Clinical objective gains have been minimal at best considering the vast amount of supervised care that has been rendered. Lumbar ranges of motion were near normal in early October 2002 and were normal or better by early November 2002. Strength testing performed on 11/04/02 revealed true lumbar flexion strength average was 53.7 pounds and extension was 67.8 pounds. The claimant has had more than enough instruction from prior active rehabilitation to continue with a progressive self-managed independent home exercise program versus formal supervised group or one-on-one active rehabilitation. Additionally the documentation submitted for review does not support evaluation and management (E/M) code 99213 for each and every office visit at this phase of care. Once every 2-4 weeks would appear reasonable and medically necessary to: assess, examine, evaluate, manage, determine, and/or alter the treatment plan in order to quantify the efficacy of chiropractic care rendered from 11/05/03 to 12/24/03. The claimant was not a candidate for the recommended work hardening program (WHP) in my opinion. The WHP is a highly structured, goal-oriented, individualized return to work program that addresses physical deficits as well as psychological deficits that may be hindering the claimant's ability in order to return to work. The entrance criteria used as the supporting documentation for the WHP was lacking: validity for maximal effort, consistency of documentation, and the chiropractic therapy notes are repetitive and inconsistent with other clinical objective findings reported by other healthcare providers. This 26-year old claimant who is reporting psychological overlay within a 6-month timeframe from the date of injury is not realistic for minor soft tissue injuries. The chiropractic documentation provided is inconsistent with the diagnosis of lumbar disc disorder with myelopathy. The diagnosis would appear to have been up coded or misdiagnosed as the ICD-9 722.73 lumbar disc disorder with myelopathy is out of the scope of practice for a chiropractor and unsupported by the documentation. The diagnosis of myelopathy would require spinal cord trauma, while the mechanisms of injury was lifting, therefore; ICD-9 code 846.0 lumbar sprain/strain would appear to be the best supported diagnosis by the documentation. Finally early return to function such as work has been proven to help expedite the recovery of the claimant by improving their physical and psychosocial self. Chapman-Smith, D. *The Chiropractic Profession*, 2000, Pg. 109 states "Helpful effects of early activity include promotion of bone and muscle strength, improved disc and cartilage nutrition, increased endorphin levels bringing reduced sensitivity to pain and avoidance of psychological problems." CPT code 99203 on 09/25/02 is reasonable to assess the claimant's clinical status in order to initiate a trial of chiropractic care. CPT code 97110 times 1-unit on 10/03/02 was reasonable and necessary for active rehabilitation. 97750MT on 11/18/02 was reasonable and necessary to periodically assess the clinical status of the claimant's condition.