

MDR Tracking Number: M5-03-2451-01

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 05-27-03.

The IRO reviewed therapeutic exercises, range of motion testing, sensory nerve conduction test, physical performance test, myofascial release, office visits, joint mobilization, manual traction, somatosensory testing and motor nerve conduction testing rendered from 09-06-02 through 11-29-02 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
10-3-02 through 10-7-02 (2 DOS)	99213	\$96.00 (1 unit @ \$48.00 X 2 DOS)	\$0.00	U	\$48.00	IRO Decision	Reimbursement recommended in the amount of \$48.00 X 2 DOS = \$96.00
10-3-02 through 10-7-02 (2 DOS)	97250	\$86.00 (1 unit @ \$43.00 X 2 DOS)	\$0.00	U	\$43.00	IRO Decision	Reimbursement recommended in the amount of \$43.00 X 2 DOS = \$86.00
10-3-02 through 10-7-02 (2 DOS)	97265	\$86.00 (1 unit @ \$43.00 X 2 DOS)	\$0.00	U	\$43.00	IRO Decision	Reimbursement recommended in the amount of \$43.00 X 2 DOS = \$86.00
10-3-02 through 10-7-02 (2 DOS)	97122	\$70.00 (1 unit @ \$35.00 X 2 DOS)	\$0.00	U	\$35.00	IRO Decision	Reimbursement recommended in the amount of \$35.00 X 2 DOS = \$70.00
9-6-02 through 11-29-02 (46 DOS)	97110	\$7,070.00 (5 units @ \$35.00 X 14 DOS, 4 units @ \$140.00 X 30 DOS and 6 units @ \$210.00 X 2 DOS)	\$840.00	U	\$35.00	IRO Decision	No reimbursement recommended.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
11-5-02	95851	\$36.00 (1 unit)	\$0.00	U	\$36.00	IRO Decision	No reimbursement recommended.
10-2-02	95900-27	\$256.00 (4 units)	\$89.60	U	\$64.00	IRO Decision	No reimbursement recommended.
10-2-02 through 10-15-02 (2 DOS)	95904-27	\$256.00 (2 units @ \$128.00 X 2 DOS)	\$44.80	U	\$64.00	IRO Decision	No reimbursement recommended.
10-3-02 through 11-12-02 (2 DOS)	97750	\$860.00 (8 units @ \$344.00 1 DOS, 12 units @ \$516.00 1 DOS)	\$0.00	U	\$43.00	IRO Decision	No reimbursement recommended.
10-22-02	97750-MT	\$43.00 (1 unit)	\$0.00	U	\$43.00	IRO Decision	No reimbursement recommended.
10-20-02	95925-27	\$700.00 (4 units)	\$122.50	U	\$175.00	IRO Decision	No reimbursement recommended.
11-13-02	99214	\$71.00 (1 unit)	\$0.00	U	\$71.00	IRO Decision	No reimbursement recommended.
10-8-02 through 11-29-02 (28 DOS)	99213	\$1,344.00 (1 unit @ \$48.00 X 28 DOS)	\$0.00	U	\$48.00	IRO Decision	No reimbursement recommended.
10-8-02 through 11-6-02 (17 DOS)	97250	\$731.00 (1 unit @ \$43.00 X 17 DOS)	\$0.00	U	\$43.00	IRO Decision	No reimbursement recommended.
10-8-02 through 11-6-02 (17 DOS)	97265	\$731.00 (1 unit @ \$43.00 X 17 DOS)	\$0.00	U	\$43.00	IRO Decision	No reimbursement recommended.
10-8-02 through 11-6-02 (17 DOS)	97122	\$595.00 (1 unit @ \$35.00 X 17 DOS)	\$0.00	U	\$35.00	IRO Decision	No reimbursement recommended.
TOTAL		\$12,775.00					The requestor is entitled to reimbursement of \$338.00

The IRO concluded that therapeutic exercises, range of motion testing, motor and sensory nerve conduction test, physical performance test, somatosensory testing from 09-06-02 through 11-29-02 and office visits, myofascial release, joint mobilization, and manual traction from 10-08-02 through 11-29-02 **were not** medically necessary. The IRO concluded that office visits, myofascial release, joint mobilization and manual traction from 09-06-02 through 10-07-02 **were** medically necessary.

On this basis, the total amount recommended for reimbursement (**\$338.00**) 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.

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 09-03-03, 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
9-6-02 through 10-7-02 (3 DOS)	95851	\$108.00 (1 unit @ \$36.00 X 3 DOS)	\$0.00	G	\$36.00	Rule 133.307 (g)(3)(A-F)	G – Not global to any other service billed on DOS. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$36.00 X 3 DOS = \$108.00
9-9-02 through 10-8-02 (3 DOS)	97750-MT	\$129.00 (1 unit @ \$43.00 X 3 DOS)	\$0.00	G	\$43.00	96 MFG MEDICINE GR (l)(E)(3)	G – Not global to any other service billed on DOS. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$43.00 X 3 DOS = \$129.00
9-13-02	95904	\$384.00 (6 units)	\$0.00	F	\$64.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement

							recommended in the amount of \$64.00 X 6 units = \$384.00
10-21-02	97110	\$140.00 (4 units)	\$35.00	NO EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement recommended.
10-21-02	95851	\$36.00 (1 unit)	\$0.00	NO EOB	\$36.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$36.00
11-21-02	99213	\$48.00 (1 unit)	\$0.00	NO EOB	\$48.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$48.00

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
12-13-02	99213	\$48.00 (1 unit)	\$0.00	G	\$48.00	96 MFG E/M GR (VI)(B)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$48.00
12-16-02	A4558	\$18.00 (1 unit)	\$0.00	NO EOB	DOP	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-27-02	97545 WH- AP	\$128.00 (2 units)	\$102.40	N	\$64.00	96 MFG MEDICINE GR (II)(E)(3-5)	Requestor did not submit relevant information to support documentation criteria. No reimbursement recommended.
12-27-02	97546 WH- AP	\$384.00 (6 units)	\$307.20	N	\$64.00	96 MFG MEDICINE GR (II)(E)(3-5)	Requestor did not submit relevant information to support documentation criteria. No reimbursement recommended.

TOTAL		\$1,423.00	\$444.60				The requestor is entitled to reimbursement in the amount of \$753.00
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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 09-06-02 through 12-13-02 in this dispute.

This Findings and Decision and Order are hereby issued this 10th day of May 2004.

Debra L. Hewitt
 Medical Dispute Resolution Officer
 Medical Review Division
 DLH/dlh

NOTICE OF INDEPENDENT REVIEW DECISION

August 20, 2003

Rosalinda Lopez
 Program Administrator
 Medical Review Division
 Texas Workers Compensation Commission
 4000 South IH-35, MS 48
 Austin, TX 78704-7491

RE: MDR Tracking #: M5-03-2451-01
 IRO Certificate #: 4326

The ___ 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. ___'s 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 sustained a severe laceration left foot and toes and a fracture of his left 1st phalynx on ___. After surgical intervention and healing time, the patient began a course of physical therapy. Electromyography and nerve conduction velocity studies dated 10/02/02 were normal. A designated doctor evaluation performed 12/11/02 and reports the patient is at maximum medical improvement with 0% impairment rating.

Requested Service(s)

Therapeutic exercises, range of motion testing, sensory nerve conduction test, physical performance test, myofascial release, office visits, joint mobilization, manual traction, somatosensory testing, and motor nerve conduction testing from 09/06/02 through 11/29/02

Decision

It is determined that the office visits myofascial release, joint mobilization, and manual traction from 09/06/02 through 10/07/02 were medically necessary to treat this patient's condition. However, therapeutic exercises, range of motion testing, motor and sensory nerve conduction test, physical performance test, somatosensory testing, from 09/06/02 through 11/29/02 and the office visits, myofascial release, joint mobilization, and manual traction from 10/08/02 through 11/29/02 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

The patient began a course of physical therapy on 07/25/02 that consisted of therapeutic exercises and gait training. He was treated on five occasions and his final physical therapy evaluation on 08/02/02 revealed he had normal ranges of motion (ROM), normal gait, pain levels at 1 to 2 out of 10, and the patient self-reported he was 95% improved.

The patient went to the chiropractor on 09/05/02 with complaints of pain in the great toe and in the second toe on the left. He also reported swelling, numbness, and tingling, as well as ankle pain on the left. The examination reported the presence of hypoesthesia from L4-S1 on the left and swelling and tenderness was noted over the injured joints. Joint dysfunction was reported in the toes and left ankle and reduced ROM was noted. The chiropractor also reported the presence of a Tinel's sign over the tarsal tunnel on the left and deep tendon reflexes were normal.

The patient was diagnosed with an open fracture of the distal first phalynx, open wound of the big toe, paresthesia, and muscle spasms.

The therapeutic exercise treatments administered by the chiropractor were not medically necessary for the treatment of this patient's condition. The medical records reviewed did not delineate the nature or type of exercises used for the treatment of the patient's focal left toe injury for each of the fifty one-hour to one-and-a-half-hour exercise sessions noted in the progress notes from 09/06/02 through 11/29/02. The records contained no specifics related to the following usual and customary chart entries:

- Type of exercise(s) utilized
- Increases in repetitions
- Increases in weight moved during exercise
- Increases in range of motion
- Increases in endurance

Haldeman et al indicated that the patient's records must be sufficiently complete to provide reasonable information requested by a subsequent healthcare provider, insurance company, and/or attorney. A dated record of what occurred on each visit and any significant changes in the clinical picture or assessment, or treatment plan need to be noted (*Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993*).

The uses of myofascial release, joint mobilization, and manual traction were medically necessary from 09/06/02 to 10/07/02, but these therapies were not medically necessary beyond this point due to the lack of demonstrable gains noted in the medical records and due to the fact that the patient's gait was normal, his ROMs were normal, and he had recovered by 95% as of his last physical therapy evaluation on 08/02/02. According to current chiropractic treatment guidelines, an adequate trial of care is defined as a course of two weeks each of different types of manual procedures (4 weeks total), after which, in the absence of documented improvement, manual procedures are no longer indicated (*Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993*). The patient has had a protracted course of care in excess of the parameters delineated by the above-mentioned document and has not demonstrated a favorable response to treatment.

The patient underwent current perception threshold (CPT) testing at the chiropractor's office on 09/13/02 and 10/15/02. These tests were not medically necessary to treat the patient's condition. According to the American Academy of Electrodiagnostic Medicine, the CPT test requires an intact sensorimotor system from the sensory receptor to the motor speech area (to signal stimulus detection), a report of abnormal sensory perception lacks localizing value and can reflect abnormality at any site along this pathway. Therefore, the technique is limited in its ability to distinguish between anatomic sites of peripheral nerve injury. For example, it is not possible with the Neurometer® CPT to distinguish between distal median nerve entrapment, proximal median nerve injury, or cervical radiculopathy, since these may all cause the same Neurometer® CPT abnormality. Conflicting information and methodological problems exist regarding the utility of the Neurometer® CPT for the diagnostic evaluation of specific disease conditions such as carpal tunnel syndrome (CTS) and polyneuropathy.

Future research is needed to establish statistically expressed normal values and to demonstrate the sensitivity and specificity of the Neurometer® CPT data. The reviewers of the notated article below concluded that publications given by the marketers of this instrument are insufficient to make conclusions about the usefulness of this form of sensory testing at the present time (*American Association of Electrodiagnostic Medicine (AAEM) Equipment and Computer Committee (1993-1996): Technology Review: The Neurometer Current Perception Threshold (CPT), Muscle Nerve 22: Supplement 8: S247-259, 1999*).

Somatosensory testing were not medically necessary for treatment of the patient's condition because the medical records did not demonstrate that the patient had a spinal injury that would necessitate such testing. The patient's injury was to the first toe's distal phalynx.

Computerized muscle testing of the ankle was done on 09/09/02, 09/24/02, and 10/08/02. The tests revealed that the patient's condition was declining in spite of the fact that the progress notes indicated the patient was improving under the care of the chiropractor. The computerized muscle testing of the ankle for dorsiflexion and plantar flexion strength was not medically necessary in this case, as the injury was to the first phalanx of the big toe and no ankle injury was indicated in the records reviewed prior to the patient's first chiropractor evaluation on 09/05/02.

The patient also underwent ankle ROM studies on 09/06/02, 09/23/02, 10/07/02, 10/27/02, and 11/05/02. These studies were not medically necessary to treat this patient's condition due to the fact that the ankle was not injured in this case.

Therefore, it is determined that the office visits myofascial release, joint mobilization, and manual traction from 09/06/02 through 10/07/02 were medically necessary to treat this patient's condition. However, therapeutic exercises, range of motion testing, motor and sensory nerve conduction test, physical performance test, somatosensory testing, from 09/06/02 through 11/29/02 and the office visits myofascial release, joint mobilization, and manual traction from 10/08/02 through 11/29/02 were not medically necessary.

Sincerely,