

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING IS THE RELATED SOAH DECISION:

SOAH DOCKET NO. 453-04-5357.M5

MDR Tracking Number: M5-03-2487-01

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 06-05-03.

The IRO reviewed therapeutic exercises rendered from 01-22-03 through 02-14-03 that was denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. 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 08-07-03, 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:

The respondent addressed dates of service 12-13-02 and 01-06-03 code 99213 per explanation of benefits and payment has been made per the fee schedule. Therefore, no fee issues exist for these dates of service.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
12-2-02	99204	\$110.00 (1 unit)	\$0.00	N	\$106.00	96 MFG E/M GR (VI)(A)	Requestor submitted relevant information to meet documentation criteria. Recommend reimbursement in the amount of \$106.00
12-2-02	A4460	\$15.00 (1 unit)	\$6.15	S	DOP	96 MFG DME GR VIII	Requestor submitted relevant information to meet DOP criteria. Additional reimbursement recommended in the amount of \$8.85.
1-6-03 through 2-28-03 (3 DOS)	99080-73	\$45.00 (\$15.00 1 unit X 3 DOS)	\$0.00	F, No EOB	DOP	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to meet DOP criteria for DOS 1-17-03 and 2-28-03. Requestor did not submit relevant information to meet DOP criteria for DOS 1-6-03. Recommend reimbursement in the amount of \$15.00 X 2 DOS = \$30.00
1-17-03	99214	\$80.00 (1 unit)	\$0.00	N	\$71.00	96 MFG E/M GR (VI)(B)	Requestor submitted relevant information to meet documentation criteria. Recommend reimbursement in amount of \$71.00
1-17-03	97750-MT	\$50.00 (1 unit)	\$0.00	F	\$43.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Recommend reimbursement in amount of \$43.00
1-30-03 through 1-31-03 (2 DOS)	97110	\$360.00 (4 units @ \$180.00 X 2 DOS)	\$0.00	No EOB, D	\$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement recommended.
2-28-03	99213	\$60.00 (1 unit)	\$0.00	No EOB	\$48.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Recommend reimbursement in amount of \$48.00
TOTAL		\$720.00	\$6.15		\$608.00		The requestor is entitled to reimbursement in the amount of \$306.85

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 12-02-02 through 02-28-03 in this dispute.

This Order is hereby issued this 22nd day of March 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

REVISED 3/18/04

July 24, 2003

IRO Certificate# 5259
MDR Tracking Number: M5-03-2487-01

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

____ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that

no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ____.

CLINICAL HISTORY

____sustained a right inguinal hernia injury in ____ while lifting at work. The hernia was repaired surgically on 12/20/02 and rehab followed starting 1/20/03 for de-conditioning and weakness secondary to his post-operative status.

REQUESTED SERVICE (S)

Therapeutic exercises from 1/22/03 to 1/27/03 and 2/5/03 to 2/14/03

DECISION

Therapeutic exercises were necessary.

RATIONALE/BASIS FOR DECISION

____had surgery for a right inguinal hernia repair on 12/20/02 and had instructions from the surgeon, ____ not to perform heavy lifting until 1/24/03. ____ also prescribed rehab therapy for ____and recommended he return to ____ for this care, which he did. Review has been done of hi rehab program along with his progress reports and both are excellent. The strengthening and stabilization guidelines were followed per ____ orders. General conditioning was also included in the rehab. The rehab approach enabled ____to return to the work environment as quickly as possible.