

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

**SOAH DOCKET NO. 453-04-3739.M5**

MDR Tracking Number: M5-03-2489-01

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 6-6-03.

The IRO reviewed office visits, therapeutic procedures, kinetic activities, and myofascial release rendered from 6-6-02 through 9-19-02 that were denied as not medically necessary.

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.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. The disputed dates of service 1-30-02 through 5-22-02 are untimely and not reviewable per TWCC Rule 133.307 (d)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the dates of service in dispute. The Commission received the medical dispute on 6-6-03. Requestor's letter dated 7-30-03 indicates that the disputed date of service 8-26-02 (office visit) has been paid.

On July 29, 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
7-10-02 8-12-02 8-13-02	99213 97250 97530 97110	\$50.00 \$45.00x2 \$70.00x2 \$175.00x2	0.00	NA	\$48.00 \$43.00 \$35.00 ea 15 min \$35.00 ea 15 min	96 MFG Med GR I A 10 a; E/M GR VI B; Rule 133.307(g)(3)	These dates of service were not listed on the original table of disputed services; therefore, no review will be conducted.

DOS	CPT CODE	Billed\$	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
8/14/02	99213 97530 97110 97250	\$50.00 \$70.00 \$175.00 \$45.00	0.00	No EOB	\$48.00 \$35.00 ea 15 min \$35.00 ea 15 min \$43.00	96 MFG Med GR I A 10 a; E/M GR VI B; Rule 133.307(g)(3)	Daily notes support delivery of service. Recommend reimbursement of \$48.00 + \$70.00 + \$43.00 = \$161.00. See RATIONALE below for code 97110.
9-5-02	97530 97250	\$70.00 \$45.00	0.00	No EOB	\$35.00 ea 15 min \$43.00	96 MFG Med GR I A 10 a; Rule 133.307(g)(3)	Daily note supports delivery of service. Recommend reimbursement of \$123.00.
9-16-02	97250	\$45.00	0.00	No EOB	\$43.00	96 MFG Med GR I A 10 a; Rule 133.307(g)(3)	Daily note supports delivery of service. Recommend reimbursement of \$43.00.
TOTAL		\$1,130.00	0.00				The requestor is entitled to reimbursement of \$327.00

**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 has reviewed the matters in light of the Commission requirements for proper documentation.

The Medical Review Division 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.

The above Findings and Decision are hereby issued this 30th day of January 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review

**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 6-6-02 through 9-19-02 in this dispute.

This Order is hereby issued this 30th day of January 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

July 23, 2003

Re: Medical Dispute Resolution  
MDR #: M5-03-2489-01  
IRO Certificate No.: IRO 5055

\_\_\_ 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 female claimant received a crushing injury to her right forearm in a work-related accident on \_\_\_. On the same day, she underwent surgery to perform a reduction to the fractures in her right radius and ulna. On 11/14/01, the patient began care for post-operative therapy and rehabilitation. On 07/25/02, a TWCC Designated Doctor determined she had not reached MMI. Rehab continued until 09/19/02, at which time she was put on a home rehab program and released from her active care.

**Disputed Services:**

Office visits, therapeutic procedures, kinetic activities, and myofascial release that was performed between 06/06/02 through 09/19/02.

**Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the services in question were medically necessary in this case.

**Rationale:**

The patient's notes clearly show slow, but consistent improvement and response to the treatment and rehabilitation. Her condition can be classified in protocols set down by the TWCC as Secondary Level of Care. She has a history of limited-to-good response to primary treatment, but has persistent symptoms with limitations to activities of daily living. Also objective physical exam findings suggest deconditioning to the affected area.

The treating orthopedist noted on 03/13/02 that the average recovery time to reach MMI for a forearm fracture is between 6 to 9 months, which the patient falls into. On 07/25/02, the TWCC Designated Doctor stated that the patient had not reached MMI. Therefore, one can assume that further treatment and rehab were inferred.

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,