

MDR Tracking Number: M5-03-2490-01

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 11-04-02.

The IRO reviewed office visits with manipulation, physical therapy, joint mobilization, myofascial release, x-rays, therapeutic exercises, manual traction, physical performance testing – muscle testing rendered from 02-11-02 through 07-19-02 that was denied based upon “V”.

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:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
1-11-02 through 2-18-02 (2 DOS)	95851	\$36.00 (1 unit X 2 DOS)	\$0.00	F, No EOB	\$36.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Recommend reimbursement in amount of \$36.00 X 2 DOS = \$72.00
1-30-02	97750-MT	\$43.00 (1 unit)	\$0.00	N	\$43.00	96 MFG MED GR (I)(3)	Requestor submitted relevant information to support documentation criteria. Recommend reimbursement in amount of \$43.00

3-25-02 through 4-29-02 (20 DOS)	97110	\$35.00 (1 unit X 59 units)	\$0.00	No EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	See Rationale Below. No reimbursement recommended.
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DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS	Reference	Rationale
3-25-02 through 4-26-02 (19 DOS)	97250	\$43.00 (1 unit X 19 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 \$43.00 X 19 DOS = \$817.00
3-25-02 through 4-29-02 (20 DOS)	99213	\$48.00 (1 unit X 20 DOS)	\$0.00	No EOB	\$48.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service for DOS 3-25-02 through 4-29-02. Recommend reimbursement in amount of \$48.00 X 20 DOS = \$960.00
6-7-02	99213	\$48.00 (1 unit)	\$0.00	No EOB	\$48.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
3-26-02 through 4-26-02 (17 DOS)	97265	\$43.00 (1 unit X 17 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 \$43.00 X 17 DOS = \$731.00
TOTAL		\$3,336.00	\$0.00		\$3,336.00		The requestor is entitled to reimbursement in the amount of \$2,623.00

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.

This Decision is hereby issued this 24th day of March 2004.

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

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 01-11-02 through 07-19-02 in this dispute.

This Order is hereby issued this 24th day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/dlh

July 29, 2003
Amended March 22, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

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IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

On ___, ___ was performing her normal duties as a mill worker for ___. She was carrying header door frames when she slipped on a wet floor, threw her hands out in front of herself and felt a pop and pain in her shoulder.

DISPUTED SERVICES

Under dispute is the medical necessity of office visits, with manipulation, therapeutic exercises, manual traction, physical performance testing (muscle testing), physical therapy, joint mobilization, myofascial release and x-rays provided on 2/11/02, 2/18/02 thru 3/21/02, 5/16/02, 5/20/02, 5/30/02, 6/10/02, 6/18/02, 6/24/02, 7/8/02 and 7/19/02.

DECISION

The reviewer both agrees and disagrees with the prior adverse determination.

The reviewer finds treatment to be medical necessity and appropriate for all codes and dates in dispute with exception to the following:

2/18/02 (97122)
3/5/02 (72070-WP, 73030-WP, 99204)
3/6/02 (99213)
3/7/02 (99213)
3/11/02 (99213)
3/20/02 (99213)
5/16/02 (99213)
5/30/02 (99213)
6/10/02 (99213)
6/18/02 (99213)
6/24/02 (99213)
7/8/02 (99213)

BASIS FOR THE DECISION

On 2/5/02, ___ held a team conference with ___, case manager for ___. The plan was to fulfill ___ request to finish all the therapy she could before proceeding with any surgical option. If satisfactory improvement was accomplished, then this patient would be placed at MMI; if not, surgery would be reconsidered. On 4/5/02 ___ determined that further rehabilitation without surgical intervention would not improve her condition. Surgery was performed on 7/21/02.

The office visits with manipulation, therapeutic exercises, manual traction, physical performance testing, physical therapy, joint mobilization and myofascial release performed on the dates in question were medically necessary based on the case management conference agreement between ___ and ___.

In accordance with Texas Labor Code 408.021 (a), an employee who sustains a compensable injury is entitled to all health care reasonable required by the nature of the injury as and when needed. The employee is specifically entitled to health care that: (1) cures or relieves the effects naturally resulting from the compensable injury; (2) promotes recovery; (3) or enhances the ability of the employee to return to work or retain employment.

With regards to those dates and items in dispute for which the reviewer did not find medical necessity, the reasoning is as follows:

2/18/02 (97122) No documentation was provided to demonstrate that services were performed.

3/5/02 (72070-WP, 73030-WP, 99204) No documentation was provided to demonstrate that services were performed.

On 3/6/02, 3/7/02, 3/11/02, 3/20/02, 5/16/02, 5/30/02, 6/10/02, 6/18/02, 6/24/02, 7/8/02, (99213) was denied based on the TWCC guidelines for Peer Review/Utilization Review Certification Guidelines by Greg Fisher, D.C., chapter 16 pages 166-7. For E/M procedures of established patients, two of the three components (history, examination, medical decision making) must be met or exceeded for a particular level of E/M service. At the level of 99213: presenting problem is low to moderate; the history is expanded; the examination is also expanded and the decision-making is low. The office visit notes for the above dates do not meet the requirements in at least two of the criteria. To meet the requirements of an expanded history, more than just entering a pain rating number under subjective findings is needed. In the SOAP notes under objective findings, a list of medical terms is listed (tenderness weakness muscle spasms decreased ROM fixations). To meet the requirements of an expanded examination, specifics of which tissues responded to what challenge yielding what kind of results is needed. Simply choosing from a laundry list of conditions gives no evidence that an exam was performed at all.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,