

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

SOAH DOCKET NO. 453-04-5200.M5

MDR Tracking Number: M5-03-2540-01

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 04-21-03.

The IRO reviewed office visits, office visits with manipulation, myofascial release, joint mobilization, manual traction, therapeutic procedures, TENS application, range of motion, temperature gradient studies, muscle testing, physical performance testing, therapeutic activities, FCE, work hardening and medical conference by a physician with interdisciplinary team rendered from 11-15-02 through 02-10-03 that was denied based upon "U" and "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 08-14-03, 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
11-25-02	97250	\$43.00 (1 unit)	\$0.00	No EOB	\$43.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
11-25-02	95851	\$72.00 (2 units @ \$36.00 per unit)	\$0.00	G	\$36.00	96 MFG MED GR I (E)(4)	G – Not global to any other service billed on this date. The requestor did not submit relevant information to

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
							support delivery of service. No reimbursement recommended.
12-3-02 through 12-12-02 (5 DOS)	99213	\$48.00 (1 unit X 5 DOS)	\$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.
12-3-02 through 12-12-02 (5 DOS)	97265	\$43.00 (1 unit X 5 DOS)	\$0.00	No EOB	\$43.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-3-02 through 12-12-02 (5 DOS)	97250	\$43.00 (1 unit X 5 DOS)	\$0.00	No EOB	\$43.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-10-02 through 12-12-02 (2 DOS)	97122	\$35.00 (1 unit X 2 DOS)	\$0.00	No EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
12-12-02	97110	\$140.00 (4 units)	\$0.00	No EOB	\$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement recommended.
1-7-03	99213	\$48.00 (1 unit)	\$0.00	T	\$48.00	Advisory 2002-11; Rule 133.304(C)	T – denied for outside treatment guidelines. The treatment guidelines were abolished by statute effective 1-1-02. The review will be per the 96 MFG. Relevant information was submitted to support delivery of service. Reimbursement recommended in the amount of \$48.00
1-29-03 through 2-7-03 6 DOS)	97545	\$128.00 (1 unit X 6 DOS)	\$0.00	No EOB	\$64.00 per hour (CARF provider)	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 DOS = \$384.00
1-29-03 through 2-7-03 (6 DOS)	97546	\$384.00 (6 units X 6 DOS)	\$0.00	No EOB	\$64.00 per hour (CARF provider)	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$384.00 X 6 DOS = \$2,304.00
2-3-03	99361	\$53.00 (1 unit)	\$0.00	No EOB	\$53.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of \$53.00
TOTAL		\$4,168.00	\$0.00		\$3,784.00		The requestor is entitled to reimbursement in the amount

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
							of \$2,789.00

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 22nd day 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 11-15-02 through 02-10-03 in this dispute.

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

Roy Lewis, Supervisor
 Medical Dispute Resolution
 Medical Review Division

RL/dlh

July 29, 2003

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-03-2540-01
TWCC #:
Injured Employee:
Requestor:
Respondent:
----- Case #:

----- has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ----- IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ----- for independent review in accordance with this Rule.

----- has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ----- external review panel. The ----- chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ----- for independent review. In addition, the ----- chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 43 year-old male who sustained a work related injury on ----- . The patient reported that while at work he fell from a 9 foot scaffold. The patient reported that he injured his right elbow, left head and low back. The patient underwent an MRI of the lumbar spine on 11/22/02 that showed posterior annular tears at L3-L4, L4-L5, and L5-S1. The patient also underwent an MRI of the brain and right elbow on 11/22/02. On 11/6/02 the patient underwent X-Rays of the right elbow, skull and lumbar spine. The diagnoses for this patient included medial epicondylitis and lumbar sprain with trigger points. The patient was treated with oral pain medications, physical therapy and rehabilitation, and chiropractic care that included manipulations, myofascial release, joint mobilization, manual traction, therapeutic procedures, TENS unit, range of motion, work hardening and therapeutic activities.

Requested Services

Office visits, office visits with manipulation, myofascial release, joint mobilization, manual traction, therapeutic procedures, TENS application for trial basis, range of motion, temperature gradient studies, muscle testing, physical performance testing, therapeutic activities, FCE, work

hardening and medical conference by a physician with interdisciplinary team on 11/15/02 through 2/10/03.

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

Rationale/Basis for Decision

The ----- chiropractor reviewer noted that this case concerns a 43 year-old male who sustained a work related injury to his right elbow, left head and low back on -----. The ----- chiropractor reviewer also noted that the diagnoses for this patient included medial epicondylitis and lumbar sprain with trigger points. The ----- chiropractor reviewer further noted that the patient was treated with oral pain medications, physical therapy and rehabilitation, myofascial release, joint mobilization, manual traction, therapeutic procedures, TENS unit, range of motion, work hardening and therapeutic activities. The ----- chiropractor reviewer explained that the patient fell off a 9 foot scaffold and sustained significant injuries. The ----- chiropractor reviewer also explained that the patient required extensive treatment for these injuries. Therefore, the ----- chiropractor consultant concluded that the office visits, office visits with manipulation, myofascial release, joint mobilization, manual traction, therapeutic procedures, TENS application for trial basis, range of motion, temperature gradient studies, muscle testing, physical performance testing, therapeutic activities, FCE, work hardening and medical conference by a physician with interdisciplinary team on 11/15/02 through 2/10/03 were medically necessary to treat this patient's condition.

Sincerely,

State Appeals Department