

MDR Tracking Number: M5-04-2640-01

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 June 17, 2003.

The IRO reviewed therapeutic exercises rendered from 9/26/02 through 11/1/02 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 September 3, 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	MAR\$	Reference	Rationale
9/5/02	97110	\$200.00	\$35.00	N	\$140.00	<u>MFG, Medicine Ground Rule</u> (I)(9)(b), (I)(10)(a) & (I)(11)	Please see rationale below.
9/6/02	97110	\$200.00	\$35.00	N	\$140.00		
9/10/02	97110	\$200.00	\$35.00	N	\$140.00		
9/12/02	97110	\$200.00	\$35.00	N	\$140.00		
9/16/02	97110	\$200.00	\$35.00	N	\$140.00		
9/18/02	97110	\$200.00	\$35.00	N	\$140.00		
9/20/02	97110	\$200.00	\$35.00	N	\$140.00		

9/23/02	97110	\$200.00	\$35.00	N	\$140.00	Section 413.016	
TOTAL		\$1,600.00	\$280.00		\$1,120.00		The requestor is not entitled to reimbursement of the dispute charges.

### 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 because the daily notes did not indicate whether the doctor was conducting exclusively one-to-one sessions with the claimant, the notes did not clearly indicate activities that would require a one-on-one therapy session, the notes did not indicate the type of activity/therapy, the notes did not reflect the need for one-on-one supervision and there was no statement of the claimants medical condition or symptoms that would mandate one-on-one supervision for an entire session or over an entire course of 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 9/26/02 through 11/1/02 in this dispute.

This Order is hereby issued this 9<sup>th</sup> day of January 2004.

Margaret Q. Ojeda  
 Medical Dispute Resolution Officer  
 Medical Review Division  
 MQO/mqo

August 27, 2003

MDR Tracking Number: M5-04-2640-01  
IRO Certificate# 5259

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

Documentation from file suggests that this individual was injured at work on or about \_\_\_ while attempting to lift a box and attempting to break her fall with an extended arm. The patient apparently presents initially to her treating chiropractor, \_\_\_ but no reports or other documents from him are available for review. MRI of the left shoulder is made 03/28/02 suggesting partial tear of the supraspinatus tendon and biceps tendon tenosynovitis. The patient is injected with Lidocaine and eventually undergoes surgical correction on 08/20/02. There is a 08/21/02 physician's order for post surgical physical therapy involving therapeutic exercise, modalities as needed and home exercise instruction. No chiropractic reports, orders or therapy notes are provided for review. Physical therapy plan of care appears to request joint mobilization, PROM, therapeutic exercise, ice, electrical stimulation, and other modalities as needed and home exercise instruction. Frequency and duration is set at 3x per week for 4 weeks. There is a PT re-evaluation report submitted 09/05/02 suggesting that moderate shoulder joint hypomobility and mild edema persist and that long-term strength, flexibility, and ROM goals have not been met at this time. Continued care is requested involving both active and passive physical therapy. Progressive improvement and stabilization is noted in progress reports. A physician's order for an additional 4 weeks of continued rehabilitation is submitted 09/26/02. Progressive functional improvement is noted in PT notes. Follow-up orthopedic assessment is made with \_\_\_ on 11/04/02 suggesting well-healed post surgical condition and that she is able to return to work without restrictions.

### REQUESTED SERVICE (S)

Determine medical necessity of Therapeutic Exercise provided from 09/26/02 thru 11/01/02. Therapeutic exercise (97110) provided from 09/26/02 to 11/01/02 does appear to be supported by reasonable clinical rationale and does appear to have resulted in anticipated resolution of conditions.

### DECISION

Medical necessity for these services is supported by documentation provided.

### RATIONALE/BASIS FOR DECISION

[Cyriax et.al. Textbook of Orthopedic Medicine,, Vol. II, GCQAPP Mercy Center consensus conference]

The observations and impressions noted regarding this case are strictly the opinions of this evaluator. This evaluation has been conducted only on the basis of the medical. Chiropractic documentation provided. It is assumed that this data is true, correct, and is the most recent documentation available to the IRO at the time of request. If more information becomes available at a later date, an additional service/report or reconsideration may be requested. Such information may or may not change the opinions rendered in this review. This review and its findings are based solely on submitted materials. No clinical assessment or physical examination has been made by this office or this physician advisor concerning the above-mentioned claimant. These opinions rendered do not constitute per se a recommendation for specific claims or administrative functions to be made or enforced.