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

SOAH DOCKET NO. 453-05-1132.M5

MDR Tracking Number: M5-03-2648-01

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 6-19-03.

The IRO reviewed physician phone consultation, office visit with manipulation, joint mobilization, therapeutic activities, myofascial release, brace support, muscle testing, range of motion measurements, neuromuscular re-educations, reports, physician home consultation, ultrasound, regional manipulation, differential WBC count, arthritis panel rendered from 7-29-02 through 4-2-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$ (Maximum Allowable Reimbursement)	Reference	Rationale
7-29-02 9-6-02 10-1-02 11-7-02 12-3-02 1-6-03 3-14-03 4-2-03	99213MP	$65.00	$0.00	V	$48.00	Section 408.021(a)	The IRO concluded that monthly office visits were medically necessary. A review of the TWCC60 table and EOBs revealed that 99213 rendered in the month of August and February were denied based upon a fee issue and not medical necessity; therefore, an office visit for these months was not reflected in table. $48.00 X 8 = $384.00
TOTAL							The requestor is entitled to reimbursement of **$384.00.**

The IRO concluded that physician phone consultation, office visit with manipulation (other than those listed above), joint mobilization, therapeutic activities, myofascial release, brace support, muscle testing, range of motion measurements, neuromuscular re-eductions, reports, physician

home consultation, ultrasound, regional manipulation, differential WBC count, arthritis panel rendered from 7-29-02 through 4-2-03 were not medically necessary.

On this basis, the total amount recommended for reimbursement ($384.00) does not represent a majority of the medical fees of the disputed healthcare and therefore, the requestor did not prevail in the IRO decision. Consequently, the requestor is not owed a refund of the paid IRO fee.

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.

On August 6, 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:

Neither party submitted EOBs to support services identified as "No EOB"; therefore, they will be reviewed in accordance with *Medical Fee Guideline.*

DOS	**CPT CODE**	**Billed**	**Paid**	**EOB Denial Code**	**MAR$ (Maximum Allowable Reimbursement)**	**Reference**	**Rationale**
6-19-02 6-27-02 7-1-02 7-3-02 7-12-02 7-17-02 7-26-02 7-31-02 8-19-02 9-5-02 9-16-02	97265 (X2)	$90.00	$0.00	F F, D	$43.00	Rule 133.307	The requestor failed to submit medical records to support fee dispute and challenge insurance carrier's position per Rule 133.307(g)(3)(B). Therefore, reimbursement is not recommended.
6-27-02	95851	$75.00	$0.00	F	$36.00		
8-5-02	99213 97265 (2) 97530(2)	$65.00 $90.00 $100.00	$0.00	No EOB	$48.00 $43.00 $35.00 / 15 min		
8-7-02	99213 97265 (2) 97530(2)	$65.00 $90.00 $100.00	$24.00 $43.00 $35.00	H	$48.00 $43.00 $35.00 / 15 min		

8-12-02	99213 97265 (2) 97530(2) 97250 97035	$65.00 $90.00 $100.00 $45.00 $30.00	$24.00 $43.00 $35.00 $43.00 $22.00	H	$48.00 $43.00 $35.00 / 15 min $21.50 $11.00		
8-12-02	99070	$20.00 $20.00	$7.56 $0.00	M	DOP		
8-26-02	99213 97265 (2) 97530(2) 97250	$65.00 $90.00 $100.00 $45.00	$24.00 $43.00 $35.00 $43.00	H	$48.00 $43.00 $35.00 / 15 min $21.50		
8-26-02	99070	$100.00	$0.00	N	DOP		
11-5-02 1-13-03	99215	$150.00	$0.00	N	$103.00	Rule 133.307	The requestor failed to submit medical records to support fee dispute and challenge insurance carrier's position per Rule 133.307(g)(3)(B). Therefore, reimbursement is not recommended.
11-5-02	99080	$50.00	$0.00	M	$15.00		
11-25-02	99213 97265 97530 97250 97112	$65.00 $45.00 $50.00 $45.00 $35.00	$43.20 $38.70 $31.50 $38.70 $31.70	C	$48.00 $43.00 $35.00 / 15 min $43.00 $35.00 / 15 min		
11-25-02	95900 (3) 95904 (3) 95935 (3)	$192.00 $192.00 $159.00	$0.00	No EOB	$64.00 / nerve $64.00 / nerve $53.00 / study on extremity		
11-25-02	95861	$200.00	$0.00	No EOB	$200.00		
1-13-02	97010	$30.00	$0.00	No EOB	$11.00		
1-14-03	99080	$50.00	$13.50	C	$15.00		
3-28-03	95851	$75.00	$0.00	No EOB	$36.00		
No date on table	95831	$75.00	$0.00	No EOB	$43.00		
4-14-03	99455	$420.00	$0.00	O	See Rules		
4-14-03	95831(2)	$150.00	$0.00	No EOB	$43.00		
4-21-03	99372	50.00	$0.00	N	$21.00		
5-28-03	99213	$65.00	$0.00	No EOB	$48.00		

This Decision is hereby issued this 19th day of August 2004.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

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 $384.00 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 6-19-02 through 5-28-03 in this dispute.

This Order is hereby issued this 19th day of August 2004.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION - REVISION

Date: August 2, 2004 **AMENDED DECISION**

RE: MDR Tracking #: M5-03-2648-01
IRO Certificate #: 5242

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 proposed care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a Chiropractic physician reviewer. The Chiropractic physician reviewer has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

Clinical History

According to the documentation supplied, it appears that ___ injured her right shoulder at work on ___ when she tried to stop a moving dumpster. She presented to ____ for evaluation on 05/08/2002. She had a MRI performed on 05/12/2002, which revealed tenosynovitis. The claimant was referred for a medical consult on 05/15/2002, with ___ who diagnosed the claimant with impingement syndrome and tenosynovitis. The claimant underwent various treatments including chiropractic therapy, injections, and finally surgery in 09/02 and 10/02. The claimant continued treatment post-operative and was given a 14% whole person impairment on 04/14/2003 by ___. The claimant's surgeon also felt that she was at MMI.

Requested Service(s)

Please review and address the medical necessity of the outpatient services including physician phone consultation, office visits with manipulations, joint mobilization, therapeutic exercises, myofascial release, brace support, muscle testing, range of motion measurements, neuromuscular re-education, reports, physician home consultation, ultrasound, regional manipulation, differential WBC count, arthritis panel, medical disability examination rendered between 07/29/2002 through 04/02/2003.

Decision

I disagree with the insurance company and agree with the treating doctor that monthly office visits (99213) were medically necessary. I agree with the insurance company that the remainder of the care, not listed above, was not medically necessary.

Rationale/Basis for Decision

According to the supplied documentation, the insurance company allowed for the claimant to undergo conservative care with the treating doctor. The additional treatments that were not paid during the course of this stage of care appear to be excessive to the standard of care. After conservative care failed, it would be necessary for the claimant to continue to see her treating doctor monthly so that he could recommend care as well as give proper referrals. Office visits that exceeded one per month and exceeded a 99213 CPT code are not deemed necessary. No additional care would be needed in a conservative manner once it had been determined that the claimant needed surgery. After ___ rendered the surgery, active and passive modalities were performed in his office. The notes and bills show that services that ___ were providing were redundant to the care that ___ was performing, therefore unnecessary to the treatment of the claimant's injury. The remainder of the care that was carefully reviewed did not provide objective rationale for the treatment in this case.