

MDR Tracking Number: M5-03-2690-01

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 6-23-03.

The IRO reviewed office visits, electrical stimulation, therapeutic exercises, hot/cold packs, massage, and ultrasound rendered from 7-12-02 through 8-30-02 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 \$650.00** 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.

On 9-3-03, 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\$ (Maximum Allowable Reimbursement)	Reference	Rationale
8-14-02 8-21-02	97110 97035 97124 99014	140.00x2 22.00x2 28.00x2 15.00x2	0.00	O	35.00 ea 15 min 22.00 ea 15 min 28.00 ea 15 min 15.00	96 MFG Med GR I A 10 a and Rule 133.307(g)(3)	Daily notes support delivery of services. Recommend reimbursement of \$130.00. See RATIONALE below for code 97110.
8-28-02	72050WP	81.00	0.00	N	81.00	96 MFG Anes GR I A 2 and Rule 133.307 (g)(3)	Relevant documentation was not submitted to support delivery of service. No reimbursement recommended.
TOTAL		491.00	0.00				The requestor is entitled to reimbursement of \$130.00.

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.

The above Decision is hereby issued this 27th day of January 2004.

Dee Z. Torres
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 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 7-12-02 through 8-30-02 in this dispute.

This Order is hereby issued this 27th day of January 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dzt

January 27, 2004

Rosalinda Lopez
Texas Workers’ Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: MDR # M5-03-2690-01
IRO Certificate No.: IRO 5055

REVISED REPORT
Disputed Services corrected.

___ 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 Board Certified in Physical Medicine and Rehabilitation.

Clinical History:

This male claimant suffered increasing pain in the arm and shoulder following a work-related injury on _____. MRI showed moderate compression of the spinal cord and had a C-7 laminectomy. Subsequent to the laminectomy, the patient apparently did not improve sufficiently to return to work and had severe pain in the neck and upper extremities with weakness in the muscles of the shoulder girdle. Consultation was obtained on a constant basis between the physicians and physical therapists, including neurosurgeons.

There was a plan for either work hardening or for a repeat surgical procedure on the patient. He apparently declined the repeat surgical attempt and chose to go with physical therapy. Proper prescriptions were sent by the physician to the physical therapist. The physical therapist kept the prescribing physician informed of the patient's progress.

Disputed Services:

Office visits, hot/cold packs, massage, therapeutic exercises, ultrasound therapy, and electrical stimulation during the period of 07/12/02 through 08/30/02.

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:

After surgery, the patient had weakness and pain in his arm and neck, and loss of range of motion in the neck by about 50%. He had at least a one-grade weakness in the shoulder girdle, most importantly the triceps. The goals in physical therapy notes are clearly stated, with good documentation. The entire procedure was goal-oriented towards getting the patient back to work over the approximately six-week period of time.

Ultrasound was indicated for heating up a joint to 45 degrees C., if possible and then very rapidly obtaining an increase in the range of motion of the joint when the connective tissue is heated to that temperature. Second, hot packs and cold packs are very useful prior to getting cervical range of motion, and they can be done at the same time as the ultrasound is being given. The units of therapeutic exercise, I believe, are justified in the sense that in both the neck and the shoulder girdle were used for range of motion improvement and for motor strengthening.

In reviewing the records presented, the implication that this patient was developing or in danger of developing complex regional pain syndrome, a situation almost impossible to stop or reverse once it has started. The aggressive, well-documented, goal-oriented approach taken by the physician and the therapist was indicated to prevent the development of complex regional pain syndrome in this post-operative patient. The ongoing consultations among the physicians and the therapists, and the adjuster were an indication of the efforts to get this individual back to work as soon as possible.

According to Texas Labor Code 408:021(a), an employee is entitled to the care reasonably required in association with their injury and the treatment thereof. If the patient's condition is not stable, the care to maintain and promote healing is medically necessary.

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,