

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 6-28-03

The IRO reviewed office visits with and without manipulations, joint mobilization, myofascial release, manual traction, therapeutic exercises, electrical stimulation, hot/cold packs, muscle testing, computer data analysis, paraffin therapy, special reports, ultrasound, range of motion, special services or reports from 8-22-02 through 3-24-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. The IRO determined that the office visits, joint mobilization, myofascial release, muscle testing, paraffin therapy, ROM, hot/cold packs, electrical stimulation, ultrasound and TWCC reports/special service from 8-22-02 through 10-28-02 **were** medically necessary. The IRO determined that the office visits with manipulations, therapeutic exercise, manual traction, electric stimulation, and ultrasound after 10-28-02 through 3-24-03 were **not** medically necessary. 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 9-4-03, 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:

Neither party submitted an EOB with the original dispute. Carrier submitted second reconsideration EOBs for some dates of service; however, they were dated after the date of the medical dispute. Therefore, those EOBs are untimely and will not be considered.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
7-16-02 7-17-02 7-22-02 7-23-02 7-26-02 7-29-02 7-30-02 8-21-02	97265	\$46.00 x 8	\$0.00	No EOB	\$43.00	Rule 133.307(g)(3) (A-F)	Relevant information supports delivery of service for dates of service 7-22-02 through 8-21-02 only. Recommend reimbursement of \$43.00 x 6 = \$258.00.
8-20-02	95851 95852	\$76.00 \$44.00	\$0.00 \$0.00	F NA	\$36.00 ea extrem \$41.00	Rule 133.307(g)(3) (A-F)	95851. Relevant information supports delivery of service. Recommend reimbursement of \$72.00. 95852. Per EOB dated 6-16-03, this service was paid; therefore, no dispute exists.
10/22/02	97032 97250 97265 99213	\$48.00 \$46.00 \$46.00 \$51.00		No EOB	\$22.00 ea 15 min \$43.00 \$43.00 \$48.00	96 MFG Med GR I A 10 a	Relevant information supports delivery of service. Recommend reimbursement of \$48.00, \$44.00, \$43.00, and \$43.00 = \$178.00.
11/22/02	99018	\$16.00	\$0.00	No EOB	\$16.00		Per rule, the charge for physical medicine treatment shall not exceed any combination of four modalities. Five modalities were performed on this date; therefore, this code will not be considered.
1-21-03	97032 97110 97122 97250 97265 99213	\$48.00 \$111.00 \$37.00 \$46.00 \$46.00 \$51.00	\$0.00	No EOB	\$22.00 ea 15 min \$35.00 ea 15 min \$35.00 ea 15 min \$43.00 \$43.00 \$48.00	96 MFG Med GR I A 10 a and Rule 133.307(g)(3) (A-F)	Per rule, the charge for physical medicine treatment shall not exceed any combination of four modalities. Five

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
							modalities were performed on this date; therefore, code 97032 will not be considered. Relevant information supports delivery of service for 99213, 97265, and 97250. Recommend reimbursement of \$48.00, \$43.00, and \$43.00 = \$134.00. 97122. Relevant information does not support delivery of service. 97110. See RATIONALE below.
1-28-03	97032 97110 97250 97265 99213- MP	\$48.00 \$111.00 \$46.00 \$46.00 \$51.00	\$0.00	No EOB	\$22.00 ea 15 min \$35.00 ea 15 min \$43.00 \$43.00 \$48.00	Rule 133.307(g)(3) (A-F)	99213-MP. Relevant information does not support level of service. 97032, 97250, 97265. Relevant information supports delivery of service. Recommend reimbursement of \$44.00, \$43.00, \$43.00 = \$130.00. 97110. See RATIONALE below.
4-18-03	99213	\$51.00	\$0.00	No EOB	\$48.00		Relevant information supports delivery of service. Recommend reimbursement of \$48.00.
TOTAL		\$1,387.00	\$0.00				The requestor is entitled to reimbursement of \$820.00.

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 23rd day of March 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 Order is applicable for dates of service 7-22-02 through 4-18-03 in this dispute.

This Order is hereby issued this 23rd day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dzt

September 3, 2003

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

MDR Tracking #
IRO #

M5-03-2725-01
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

This patient was injured on the job at ___ on ___. There was some debate as to whether he had, indeed, suffered an on-the-job injury, however this was addressed in a CCH on 2-6-2003. In that decision, it was found that the patient did suffer an injury to the left shoulder, left elbow and left wrist, but the neck, hernia (groin complaint), and lumbar spine were not part of the injury. Patient has seen his treating doctor since 7/15/02. The treating doctor faxed Employee's Notice of Injury to the Employer, Carrier & TWCC on 7/16/02 as evidenced by fax transmission confirmation. Employer did not file the Employer's First Report of Injury until 8/19/02. Carrier has denied payment for the injury due to the injury not being reported in a timely manner. This dispute involves charges for office visits with and without manipulation, joint mobilization, myofascial release, manual traction, therapeutic exercises, electrical stimulation, hot or cold packs, muscle testing, computer data analysis, paraffin therapy, special reports, ultrasound, range of motion testing, special services or reports.

DISPUTED SERVICES

Under dispute is the medical necessity of office visits with and without manipulation, joint mobilization, myofascial release, manual traction, therapeutic exercises, electrical stimulation, hot or cold packs, muscle testing, computer data analysis, paraffin therapy, special reports, ultrasound, range of motion testing and special services or reports.

DECISION

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

The ___ reviewer recommends approval of all office visits (99213), joint mobilizations, myofascial release, muscle testing, paraffin therapy, and ROM testing. Hot/cold packs, electrical stimulation, ultrasound should be paid for the initial 6 weeks of care. All TWCC reports and other special services/reports should be paid.

The reviewer recommends denial of office visits with manipulation (99213-MP), therapeutic exercise and manual traction. Electric muscle stimulation, ultrasound & hot/cold packs after the initial 6 weeks of care should be denied.

BASIS FOR THE DECISION

This was a very complex file review. On the one hand, the patient was injured on the job, and was provided care by his treating physician. The employer did not file the First Report of injury until after the required 30-day period which is allotted an injured employee to report a claim, though the patient's Doctor did file the notice of injury with the employer, carrier & TWCC. The case went to a CCH, where it was determined that the injury involved only the left upper extremity. Office visits are required in order to continually assess the patient's progress and overall condition. Those office visits are reasonable and necessary. The issue of office visits with manipulation becomes rather sticky. While the office visit is necessary, the areas of manipulation which are documented are not, because the spine was not part of the injury, therefore I have recommended denial of 99213-MP. Hot and cold packs, electric muscle stimulation and ultrasound are indicated in the acute phase of care and are non-preauthorizable in the first 6 weeks of care. These passive modalities are reasonable and necessary in this case in the initial 6 week period. I see no indication that the provider requested pre-authorization for an extension of the usage of these passive modalities beyond that time frame. Manual traction is not reasonable or necessary in the treatment of this upper extremity injury and therefore it is recommended that this service be denied. Therapeutic exercise was performed and recommendation is made that the charges for this be denied, because the notes are not clear as to what specific exercises are performed. To note a patient's progress in an exercise program, the reps & sets of the specific exercises should be maintained to be able to tell if specific exercises are beneficial to the patient. There is no indication as to specific exercises, sets or reps and since it is unclear whether the exercise was beneficial to the patient, recommendation cannot be made for approval of these charges without this necessary information. Finally, joint mobilization and myofascial release which was performed to the left upper extremity is reasonable and necessary. These procedures would help to maintain function of a joint which is injured. Joint mobilization will help to keep the joints mobile and should keep the patient from losing further functional ROM. Myofascial release provides soft tissue mobilization in attempt to prevent the formation of adhesions, and helps to increase circulation in damaged tissues.

___ 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,