

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

**SOAH DOCKET NO. 453-04-4178.M5**

MDR Tracking Number: M5-03-2737-01

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 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 6-27-03.

The IRO reviewed office visits w/manipulations, myofascial release, joint mobilization, therapeutic exercises, electrical stimulation, and additional manipulations rendered from 7-02-02 through 2-19-03 that were denied as unnecessary medical.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Therefore, the requestor is not entitled to reimbursement of the 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. The disputed dates of service 6-3-02 through 6-26-02 are untimely and not reviewable per TWCC Rule 133.307 (d)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the dates of service in dispute. The Commission received the medical dispute on 6-27-03.

On 10-9-03, the Medical Review Division submitted a Notice to the 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	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
7-8-02	99213-MP	\$48.00x5	0.00	No	\$48.00	96 MFG Med GR I A 10 a; I B 1 b and Rule 133.307(g)(3)	Daily notes support delivery of services. Recommend reimbursement of \$785.00. See RATIONALE below for code 97110.
7-10-02	97261	\$8.00x5		EOB	\$8.00		
10-9-02	97250	\$43.00x5			\$43.00		
10-23-02	97014	\$15.00x5			\$15.00		
10-30-02	97110	\$35.00x5			\$35.00 ea 15 min		
	97265	\$43.00x5			\$43.00		
12-20-02	99080-73	\$15.00	0.00	No EOB	\$15.00	Rule 129.5 and 133.307 (g)(3)	Work status report was not submitted

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
							for this date of service. No reimbursement recommended.
2-5-03	97250 97110 97265 97014	\$43.00 \$35.00 \$43.00 \$15.00	0.00	D	\$43.00 \$35.00 ea 15 min \$43.00 \$15.00	96 MFG Med GR I A 10 a; and Rule 133.307(g)(3)	Relevant information was not submitted to support delivery of service. No reimbursement recommended.
TOTAL		\$1,111.00	0.00				The requestor is entitled to reimbursement of \$785.00.

**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 has reviewed the matters in light of the Commission requirements for proper documentation.

The Medical Review Division 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.

**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 7-8-02 through 10-30-02 in this dispute.

This Order is hereby issued this 28th day of January 2004.

Dee Z. Torres  
 Medical Dispute Resolution Officer  
 Medical Review Division  
 DZT/dzt

October 3, 2003

Re: Medical Dispute Resolution  
 MDR #: M5-03-2737-01  
 IRO Certificate No.: IRO 5055

\_\_\_ 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 certified in Chiropractic Medicine.

**Clinical History:**

On \_\_\_ the claimant was injured on-the-job. The treating doctor mentions shoulder pain but the remainder of the records focuses on the lumbar spine. Patient has positive findings of a left S1 radiculopathy and MRI indicates degenerative disc disease at both the L4/L5 and L5/S1 disc levels.

**Disputed Services:**

Office visits with manipulations, myofascial release, joint mobilization, therapeutic exercises, electrical stimulation and additional manipulations from 7/2/02 through 2/19/03.

**Decision:**

The reviewer agrees with the insurance carrier. The services in question were not medically necessary.

**Rationale:**

The objective findings in this case do not indicate a severity of injury sufficient to warrant this length of acute recovery time. The records submitted by the provider (for the dates in question) do not support the medical necessity for the extensive modalities that were used on this patient.

Virtually all of the researched articles I have reviewed conclude with less than glowing recommendations of almost all therapeutic interventions for acute and chronic back pain, either conservative or invasive. The overreaching conclusion reached in my “meta analysis” of these research papers, in summation, is this: Exercise is the most affective therapy for back pain. Passive therapeutic modalities are very limited in their effectiveness as compared to sham treatment or placebo. Manipulation is no better or no worse than many invasive procedures (as far as long term outcomes) patient selection not withstanding.

At the present time we are at the mercy of the technology currently at our disposal as we strive to help injured patients “the best that we can”. The clinical decision of what therapeutic approach to use, how much of it to use and how long to use it, is the responsibility of the licensed health care professional in charge. The Practice of a Licensed Professional continues to be “An exercise of the Public Trust”.

A few of the referenced articles are as follows:

- Assendelft WJJ, Morton SC, Yu El, et al. *Spinal manipulative therapy for low back pain: a meta-analysis of effective relative to other therapies. Ann Intern Med. 2003; 138:871-881.*
- Cherkin DC, Sherman KJ, Deyo RA, Shekelle PG, *A review of the evidence for the effectiveness, safety, and cost of acupuncture, massage therapy, and spinal manipulation for back pain. Ann Intern Med. 2003; 138:898-906.*
- Herman E, Williams R, Stratford P, Fargas-Babjak A, Trott M.. *A randomized controlled trial of transcutaneous electrical nerve stimulation (CODETRON) to determine its benefits in*
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- *a rehabilitation program for acute occupational low back pain. Spine. 1194 Mar 1:19(5):561-8.*
- *Hananda EY, Efficacy of rehabilitation therapy in regional musculoskeletal conditions. Best Prac. Res. Clin Rheumatology. 2003 Feb; 17(1):151-66.*

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,