

MDR Tracking Number: M5-03-2798-01

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 07-02-03.

The IRO reviewed myofascial release, joint mobilization, office visits, therapeutic exercises, muscle testing, electrical stimulation, ultrasound, and range of motion testing rendered from 09-26-02 through 03-04-03 that were denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity for myofascial release, joint mobilization, office visits, therapeutic exercises, muscle testing, electrical stimulation, ultrasound, and range of motion testing. Consequently, the requestor is not owed a refund of the paid IRO fee.

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 November 13, 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	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
12-05-02	97035 (2 units)	\$48.00	0.00	No EOB	\$22.00 per unit	MFG MGR (I)(A)(9)(a)(iii)	SOAP notes support delivery of service. Recommended Reimbursement \$44.00
	97110 (3 units)	\$111.00	0.00		\$35.00 per unit	MFG MGR (I)(A)(9)(b)	See Rational
	97250	\$46.00	0.00		\$43.00	MFG MGR (I)(C)(3)	SOAP notes support delivery of service. Recommended Reimbursement \$43.00
	97265	\$46.00	0.00		\$43.00	MFG MGR (I)(C)(3)	SOAP notes support delivery of service. Recommended Reimbursement \$43.00

	99213	\$51.00	0.00		\$48.00	MFG E/MGR (IV)(C)(2)	SOAP notes support delivery of service. Recommended Reimbursement \$48.00
12-23-02	97035 (2 units)	\$48.00	0.00		\$22.00 per unit	MFG MGR (I)(A)(9)(a)(iii)	SOAP notes support delivery of service. Recommended Reimbursement \$44.00
	97110 (3 units)	\$111.00	0.00		\$35.00	MFG MGR (I)(A)(9)(b)	See Rational
	97250	\$46.00	0.00		\$43.00	MFG MGR (I)(C)(3)	SOAP notes support delivery of service. Recommended Reimbursement \$43.00
	97265	\$46.00	0.00		\$43.00	MFG MGR (I)(C)(3)	SOAP notes support delivery of service. Recommended Reimbursement \$43.00
	99213	\$51.00	0.00		\$48.00	MFG MGR (I)(B)(1)(b)	SOAP notes support delivery of service. Recommended Reimbursement \$48.00
01-31-03	97110 (3 units)	\$111.00	0.00		\$35.00 per unit	MFG MGR (I)(A)(9)(b)	See Rational
	97265	\$46.00	0.00		\$43.00	MFG MGR (I)(C)(3)	SOAP notes support delivery of service. Recommended Reimbursement \$43.00
	99213	\$51.00	0.00		\$48.00	MFG E/MGR (IV)(C)(2)	SOAP notes support delivery of service. Recommended Reimbursement \$48.00
02-04-03	95851	\$38.00	0.00		\$36.00	MFG MGR (IV)(A)	SOAP notes support delivery of service. Recommended Reimbursement \$36.00
	97250	\$46.00	0.00		\$43.00	MFG MGR (I)(C)(3)	SOAP notes support delivery of service. Recommended Reimbursement \$43.00
	97265	\$46.00	0.00		\$43.00	MFG MGR (I)(C)(3)	SOAP notes support delivery of service. Recommended Reimbursement \$43.00
	99213	\$51.00	0.00		\$48.00	MFG E/MGR (IV)(C)(2)	SOAP notes support delivery of service. Recommended Reimbursement \$48.00
02-07-03	97035 (2 units)	\$48.00	0.00		\$22.00 per unit	MFG MGR (I)(A)(9)(a)(iii)	SOAP notes support delivery of service. Recommended Reimbursement \$44.00 2 units at \$22.00 per unit)
	97110 (3 units)	\$111.00	0.00		\$35.00 per unit	MFG MGR (I)(A)(9)(b)	See Rational
	97250	\$46.00	0.00		\$43.00	MFG MGR (I)(C)(3)	SOAP notes support delivery of service. Recommended Reimbursement \$43.00

	97265	\$46.00	0.00		\$43.00	MFG MGR (I)(C)(3)	SOAP notes support delivery of service. Recommended Reimbursement \$43.00
	99213	\$51.00	0.00		\$48.00	MFG E/MGR (IV)(C)(2)	SOAP notes support delivery of service. Recommended Reimbursement \$48.00
02-24-03	97250	\$46.00	0.00		\$43.00	MFG MGR (I)(C)(3)	SOAP notes support delivery of service. Recommended Reimbursement \$43.00
	97265	\$46.00	0.00		\$43.00	MFG MGR (I)(C)(3)	SOAP notes support delivery of service. Recommended Reimbursement \$43.00
TOTAL		\$1387.00					The requestor is entitled to reimbursement of \$ 881.00

### 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 all of the Commission requirements for proper documentation. The MRD declines to order payment because per the 1996 Medical Fee Guideline, Medicine Ground Rule (I)(A)(9)(b) the SOAP notes do not clearly delineate the severity of the injury to warrant exclusive one-to-one therapy. Additional reimbursement not recommended

### 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 12-05-02 through 02-24-03 in this dispute.

This Decision is hereby issued this 24<sup>th</sup> day of February 2004.

Georgina Rodriguez  
 Medical Dispute Resolution Officer  
 Medical Review Division

November 10, 2003  
Amended February 13, 2004

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

MDR Tracking #: M5-03-2798-01  
IRO #: 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 reviewer is on the TWCC Approved Doctor List (ADL). 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 received extensive physical medicine treatments after being injured on \_\_\_ when a 150 pound steel beam fell on the anterior aspect of his right foot.

#### DISPUTED SERVICES

Under dispute is the medical necessity of electrical stimulation, ultrasound, range of motion testing, office visits, myofascial release, joint mobilization, therapeutic exercises, performance test/muscle test and reports.

#### DECISION

The reviewer agrees with the prior adverse determination.

#### BASIS FOR THE DECISION

The physician's treatment records fail to document the medical necessity for the treatments rendered. Not only was there an absence of objective findings indicating that the care was indicated and that the patient was improving as a result, the records show the patient's subjective symptoms remained the same during the time period in question.

Based on the information supplied, it also appears that chiropractic care had been attempted prior to the dates in question and that it had not been beneficial. Therefore, it would have been foreseeable that additional care of the same type would have had the same non-beneficial result.

Although \_\_\_ (who's involvement with this case is not stated) opined that the patient's ranges of motion improved with care and is thus a basis for approval, the report of "designated doctor" \_\_\_ conflicts. \_\_\_ examined \_\_\_ on October 28, 2002 (shortly after the referenced care began) and then again on February 21, 2003 (toward the end of care) and his report states, "Physical examination continues to show decreased range of motion in the ankle."

\_\_\_ 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,