

MDR Tracking Number: M5-03-2817-01

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 6-6-02.

The IRO reviewed therapeutic procedures and activities rendered from 6-13-02 through 9-26-02 that were denied as unnecessary medical.

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 \$460.00** 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.

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. The disputed date of service 6-5-02 is 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 6-6-03.

On 8-19-03, 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
8-26-02 through 9-9-02	97530 97110 97112	35.00x8 35.00x4 35.00x4	0.00	No EOB	35.00 ea 15 min 35.00 ea 15 min 35.00 ea 15 min	96 MFG Med GRI A 10 a and Rule 133.307 (g)(3)	Patient Treatment Records support therapeutic activities only. Recommend reimbursement of \$280.00. See RATIONALE below for code 97110.
TOTAL		560.00					The requestor is entitled to reimbursement of \$280.00.

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 Findings and Decision is hereby issued this 23rd 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 6-13-02 through 9-26-02 in this dispute.

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

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division
RL/dzt

REVISED 1/15/04

August 15, 2003

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IRO Certificate# 5259

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by ____, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

___ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to ___.

CLINICAL HISTORY

___ is a 25 year-old male who suffered an injury at work on ___ which resulted in lower back pain with pain in the posterior thighs bilaterally. MRI on 4/9/01 revealed a 5mm disc bulge at L4/5 and a 6mm disc bulge at L5/S1. Spinal fusion was performed by ____, MD on 1/14/03.

REQUESTED SERVICE (S)

Therapeutic procedures and activities on dates of service 6/13/02 through 9/26/02

DECISION

Approve.

RATIONALE/BASIS FOR DECISION

Texas Labor code states that 'an injured employee is entitled to all health care reasonably required by the nature of the injury as and when needed'. If symptoms are subjectively reported and the exacerbation is related to the original injury, then the employee is entitled to reasonable care. There should be no questions about the procedures employed on these dates, they are fundamental elements of treatment for this type of injury and are in the scope of medical necessity. This young man was trying to avoid surgery at all cost and this care was giving him the utmost opportunity to do so.