

MDR Tracking Number: M5-03-2863-01

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 07-10-03.

The IRO reviewed office visits and physical therapy sessions rendered from 02-05-03 through 03-07-03 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 office visits and physical therapy sessions. 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 09-19-03, 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
11-15-02, 11-27-02, 12-05-02, 12-09-02, 12-11-02, 12-12-02, 12-13-02, 12-23-02, 12-27-02, 01-02-03, 01-03-03, 01-08-03, 01-09-03, 01-10-03, 01-14-03, 01-16-03, 01-17-03, 01-22-03, 01-24-03	97250 (19 units)	\$43.00/ unit Total \$817.00	\$0.00	T	\$43.00/ unit	TWCC Advisory 2002-11	Carrier denied as "T- outside of treatment guidelines." The treatment guidelines were abolished by statute effective 01-01-02; therefore, this review will be per the MFG. Daily notes report does not confirm delivery of service. Reimbursement is not recommended.
11-15-02, 11-27-02,	97110 (57 units)	\$105.00 Total billed	\$0.00	T	\$35.00/ unit	TWCC Advisory	Carrier denied as "T- outside of treatment guidelines." The

12-05-02, 12-09-02, 12-11-02, 12-12-02, 12-13-02, 12-23-02, 12-27-02, 01-02-03, 01-03-03, 01-08-03, 01-09-03, 01-10-03, 01-14-03, 01-16-03, 01-17-03, 01-22-03, 01-24-03,		\$1995.00				2002-11	treatment guidelines were abolished by statute effective 01-01-02; therefore, this review will be per the MFG. 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 the requestor did not document that the injury was severe enough to warrant one-to-one therapy, the requestor did not identify exercises, nor did the requestor document the procedure was done in a one-to-one setting. Reimbursement not recommended
11-15-02, 11-27-02, 12-05-02, 12-09-02, 12-11-02, 12-12-02, 12-13-02, 12-23-02, 12-27-02, 01-02-03, 01-03-03, 01-08-03, 01-09-03, 01-10-03, 01-14-03, 01-16-03, 01-17-03, 01-22-03, 01-24-03	99213 (19 units)	\$48.00/ unit Total billed \$912.00	\$0.00	T	\$48.00/ unit	TWCC Advisory 2002-11	Carrier denied as "T- outside of treatment guidelines." The treatment guidelines were abolished by statute effective 01-01-02; therefore, this review will be per the MFG. Daily notes report confirms delivery of service therefore recommended reimbursement is \$912.00.
11-15-02, 11-27-02, 12-05-02, 12-09-02, 12-11-02, 12-12-02, 12-13-02, 12-23-02, 12-27-02, 01-02-03, 01-03-03, 01-08-03, 01-09-03, 01-10-03, 01-14-03,	97035 (19 units)	\$22.00/ unit Total billed \$418.00	\$0.00	T	\$22.00/ unit	TWCC Advisory 2002-11	Carrier denied as "T- outside of treatment guidelines." The treatment guidelines were abolished by statute effective 01-01-02; therefore, this review will be per the MFG. Daily notes report does confirm delivery of service for all dates of service listed recommended reimbursement (\$22/unit for 19 units) \$418.00

01-16-03, 01-17-03, 01-22-03, 01-24-03							
TOTAL	\$4142.00						The requestor is entitled to reimbursement of \$ 1330.00

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 11-15-02 through 01-24-03 in this dispute.

This Decision is hereby issued this 3rd day of February 2004.

Georgina Rodriguez
 Medical Dispute Resolution Officer
 Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

September 9, 2003

MDR Tracking #: M5-03-2863-01
 IRO Certificate #: IRO 4326

The ___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced 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 rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___'s health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians 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 this case.

Clinical History

This patient was injured on ___ when he fell down from his truck and reported severe low back pain radiating into his thighs. He also describes numbness, burning, weakness, and tingling. He went to a chiropractor for treatment and physical therapy (PT). The patient's pain interfered with his PT so he was referred to a pain management physician. An MRI dated 12/17/01 revealed a herniation at L5-S1 with stenosis at the nerve root exit bilaterally. He was placed on maximum medical improvement on 04/24/03 with impairment rating of 5%.

Requested Service(s)

Office visits and physical therapy sessions from 02/05/03 through 03/07/03

Decision

It is determined that the office visits and physical therapy sessions from 02/05/03 through 03/07/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision

It is not medically appropriate to continue with the therapeutic applications rendered by the treating provider that include ultrasound, myofascial release, office visits, and therapeutic exercises. The treating provider was advised in the designated doctor examination (DDE) that the patient would need physical therapy, work hardening, and functional capacity evaluations (FCE). The reviewed medical record shows no evidence of this progression of care in the treatment of this patient.

The patient's treatment should have taken a noticeable active, patient-driven focus after the recommendations of the DDE. It was not appropriate for this patient to remain in a passive treatment algorithm as apparent from the reviewed medical records.

The patient was in need of a highly structured, goal-oriented; behavior focused therapeutic application like work hardening. It is extremely important to the management of this patient's care that work biomechanics, work endurance, flexibility, and psychosocial factors are taken into account and the most applicable therapy is recommended and performed.

There is a lack of FCE data in the medical record. Functional data is particularly important in managing the care of patient's with unremitting low back pain. There is a lack of diagnostic record reflecting the opinion of the DDE on the necessity of surgical applications as noted in the 08/05/02 examination. It is no longer appropriate for this patient to receive passive treatment in relation to his low back condition. The patient must be immersed in an active algorithm to achieve endurance/strength goals in the low back. Therefore, it is determined that the office visits and physical therapy sessions from 02/05/03 through 03/07/03 were not medically necessary.

The aforementioned information has been taken from the following guidelines of clinical practice and clinical references:

- Geffen SJ. Rehabilitation principles for treating chronic musculoskeletal injuries. *Med J Aust.* 2003 Mar 3; 178(5); 238-42.
- *Overview of implementation of outcome assessment case management in the clinical practice.* Washington State Chiropractic Association; 2001. P54.
- *Spondylolysis, lytic spondylolisthesis, and degenerative spondylolisthesis (SLD) North American Spine Society phase III clinical guidelines for multidisciplinary spine care specialists.* North American Spine Society 2000. 106p.
- Taimela S, Diedrich C, Hubsch M, Heinrich M. *The role of physical exercise and inactivity in pain recurrence and absenteeism from work after active outpatient rehabilitation for recurrent or chronic low back pain: a follow up study.* *Spine.* 2000 Jul 15; 25(14): 1809-16.

Sincerely,