

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

SOAH DOCKET NO. 453-04-3690.M5

MDR Tracking Number: M5-03-2923-01

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 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 July 24, 2003. 12-2-02.

The IRO reviewed unlisted neurological procedures, physical therapy sessions and office visits rendered on 1/27/03 through 4/28/03, denied based on "U".

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. Consequently, the requestor is not owed a refund of the paid IRO fee.

The two units of therapeutic exercises (97110) rendered from 1/27/03 through 2/21/03 were found to be medically necessary.

The unlisted neurological procedure, physical therapy sessions, and office visits rendered from 1/27/03 through 2/21/03 were not found to be medically necessary.

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 September 3, 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.

Both the requestor and respondent failed to submit copies of EOBs for several disputed dates of

Service, therefore, the dates of service with no EOBs will be reviewed according to the MFG.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
2/7/03 3/3/03	97110	\$175.00 \$175.00	\$140.00 \$0.00	F-1 unit No EOB	\$175.00 \$175.00	<u>MFG, Medicine Ground Rule (I)(A)(9)(b), (I)(A)(10)(a) & (I)(A)(11) Section 413.016 of the Labor Code</u>	<p>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".</p> <p>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.</p> <p>The MRD declines to order payment because the notes did not clearly indicate activities that would require a one-on-one therapy session, the notes did not reflect the need for one-on-one supervision and there was no statement of the claimants medical condition or symptoms that would mandate one-on-one supervision for an entire session or over an entire course of treatment. Therefore, the requestor is not entitled to reimbursement of the disputed charges.</p>
2/7/03	97750-MT	\$43.00	\$0.00	G	\$43.00	<u>MFG, Medicine Ground Rule (I)(C)(1)(b)</u>	Per the <u>MFG, Medicine Ground Rule (I)(C)(1)(b)</u> , the muscle testing is not global to the office visits and physical therapy. Therefore, the requestor is

							entitled to reimbursement in the amount of \$43.00.
2/19/03	95851	\$36.00	\$0.00	G	\$36.00	<u>MFG, Medicine Ground Rule (I)(E)(4)</u>	Per the <u>MFG, Medicine Ground Rule (I)(E)(4)</u> , the range of motion testing is not global to the office visits and physical therapy. Therefore, the requestor is entitled to reimbursement in the amount of \$36.00.
2/21/03	97750-MT	\$43.00	\$0.00	G	\$43.00	<u>MFG, Medicine Ground Rule (I)(C)(1)(b)</u>	Per the <u>MFG, Medicine Ground Rule (I)(C)(1)(b)</u> , the muscle testing is not global to the office visits and physical therapy. Therefore, the requestor is entitled to reimbursement in the amount of \$43.00.
3/3/03	99213	\$48.00	\$0.00	No EOB	\$48.00	<u>MFG, Evaluation/ Management Ground Rule (VI)(B)</u>	Review of the office note, dated 3/3/03, supports delivery of service. The requestor, is therefore, entitled to reimbursement in the amount of \$48.00.
3/10/03	95851	\$36.00	\$0.00	G	\$36.00	<u>MFG, Medicine Ground Rule (I)(E)(4)</u>	Per the <u>MFG, Medicine Ground Rule (I)(E)(4)</u> , the range of motion testing is not global to the office visits and physical therapy. Therefore, the requestor is entitled to reimbursement in the amount of \$36.00.
3/31/03	95851	\$36.00	\$0.00	G	\$36.00	<u>MFG, Medicine Ground Rule (I)(E)(4)</u>	Per the <u>MFG, Medicine Ground Rule (I)(E)(4)</u> , the range of motion testing is not global to the office visits and physical therapy. Therefore, the requestor is entitled to reimbursement in the amount of \$36.00.
4/2/03	97750-MT	\$43.00	\$0.00	G	\$43.00	<u>MFG, Medicine Ground Rule (I)(C)(1)(b)</u>	Per the <u>MFG, Medicine Ground Rule (I)(C)(1)(b)</u> , the muscle testing is not global to the office visits and physical therapy. Therefore, the requestor is entitled to reimbursement in the amount of \$43.00.
4/18/03	95851	\$36.00	\$0.00	G	\$36.00	<u>MFG, Medicine Ground Rule (I)(E)(4)</u>	Per the <u>MFG, Medicine Ground Rule (I)(E)(4)</u> , the range of motion testing is not global to the office visits and physical therapy. Therefore, the requestor is entitled to reimbursement in the amount of \$36.00.

4/28/03	95851	\$36.00	\$0.00	D	\$36.00	<u>MFG, Medicine</u> <u>Ground Rule</u> (I)(E)(4)	Review of the "F.O.C.U.S. Custom Report", dated 4/28/03, supports delivery of service. The requestor, is therefore, entitled to reimbursement in the amount of \$36.00.
TOTAL		\$707.00	\$140.00		\$707.00		The requestor is entitled to reimbursement in the amount of \$357.00.

This Decision is hereby issued this 29th day of January 2004.

Margaret Q. Ojeda
 Medical Dispute Resolution Officer
 Medical Review Division
 MQO/mqo

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 1/27/03 through 4/28/03 in this dispute.

This Order is hereby issued this 29th day of January 2004.

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

August 20, 2003

MDR Tracking Number: M5-03-2923-01
 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

Patient injured her thoracic spine on ___ while lifting repeatedly overhead, an activity she reportedly did not routinely perform. Treatment performed during the time frame in question consisted solely of physical medicine procedures, absent any documentation that chiropractic spinal adjustments were performed at any time.

REQUESTED SERVICE (S)

Unlisted neurological procedures, physical therapy sessions, office visits from 1/27/03 through 4/28/03

DECISION

Two units of therapeutic exercise (97110) are approved for the dates of service from 1/27/03 to 2/21/03. All other procedures (except G services which were specified as outside for this review_ for the dates in question are denied.

RATIONALE/BASIS FOR DECISION

No legitimate daily progress notes were submitted for review. Rather, the notes that were submitted could quite literally be superimposed upon one another as they rarely changed from visit to visit. As a result, it was impossible to determine the patient's response to care and the medical necessity of the treatments and tests ordered.

There are no records or documentation available to support the medical necessity of the Current Perception Threshold (CPT) test (95999).

Office visits (99213) were reported on every patient encounter. TWCC Medical FEE Guidelines state that when reporting office visits where chiropractic spinal adjustments are performed, 99213-MP should be utilized. However, in the absence of performing spinal adjustments – which the daily progress notes fail to mention – then the stand – alone reporting of 99213 must be supported by documentation that reflects an extended history was taken, and that an extended examination was delivered (per *Current Procedural Terminology*). For that reason, all office visits (99213) were denied.

In regard to Joint Mobilization (97265), Manual Traction (97122), and Myofascial Release (or Soft Tissue Manipulation – 97250), the areas to which these procedures were delivered were not documented. The daily progress notes reflecting these dates of service not only failed to mention to which body/spinal areas these procedures were performed, they made no reference to them having been performed at all.

In regard to the Physical Performance Tests (97750) reported on multiple patient encounters, the Temperature Gradient Test (93740) performed on 4/4/03 and the Neuromuscular Stimulation (E0745) dispensed to the patient on 2/7/03, these

procedures are denied on the basis that the documentation failed to adequately support their medical necessity. Although the Physical Performance Tests might constitute a component of an Extended Office Visit reported on those dates, they only apply *if* the documentation supported their necessity. Absent an “Extended History” documented on the same encounter. They fail to meet the CPT requirements. Insofar as the Temperature Gradient Test is concerned, there is no documentation that the test was performed and there is insufficient data to support it as being efficacious or reliable. Since the daily progress notes fail to mention patient response to electrical stimulation, there was no basis for dispensation to the patient.

Finally, no documentation was presented to indicate that chiropractic spinal adjustments were performed at any time. According to a study published in *Spine*¹, chiropractic spinal manipulation yielded the best results for chronic spinal pain.