

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 14, 2003.

The IRO reviewed therapeutic exercises, physical performance test, office visits, hot or cold packs, and work hardening rendered from 8/21/02 through 9/30/02 denied based upon "V".

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 \$650.00** 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.

On October 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	Reference	Rationale
7/22/02	97010	\$12.65	\$0.00	N	\$11.00	<u>MFG, Medicine Ground Rule</u> (I)(A)(9)(a)(ii), (I)(A)(10)(a-b)	Review of the "S.O.A.P." note dated 7/22/02 does not meet the documentation criteria set forth by the <u>MFG</u> . Reimbursement is therefore not recommended.
7/22/02	97035	\$25.30	\$0.00	N	\$22.00	<u>MFG, Medicine Ground Rule</u> (I)(A)(9)(a)(ii), (I)(A)(10)(a-b)	Review of the "S.O.A.P." note dated 7/22/02 does not meet the documentation criteria set forth by the <u>MFG</u> . Reimbursement is therefore not recommended.

7/22/02	97110	\$80.50	\$0.00	N	\$35.00.unit	<u>MFG, Medicine</u> <u>Ground Rule</u> (I)(A)(9)(b), (I)(A)(10)(a) & (I)(A)(11)(a)	<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". 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</p>
7/24/02	97110	\$80.50	\$0.00	N			
7/25/02	97110	\$80.50	\$0.00	N			
8/16/02	97110	\$120.75	\$35.00	F			
8/19/02	97110	\$120.75	\$35.00	F			

							treatment. Therefore, the requestor is not entitled to reimbursement of the disputed charges.
7/22/02	97124	\$32.20	\$0.00	N	\$28.00	<u>MFG, Medicine Ground Rule (I)(A)(9)(b), (I)(A)(10)(a)</u>	Review of the "S.O.A.P." note dated 7/22/02 does not meet the documentation criteria set forth by the <u>MFG</u> . Reimbursement is therefore not recommended.
7/24/02	97010	\$12.65	\$0.00	N	\$11.00	<u>MFG, Medicine Ground Rule (I)(A)(9)(a)(ii), (I)(A)(10)(a-b)</u>	Review of the "S.O.A.P." note dated 7/24/02 does not meet the documentation criteria set forth by the <u>MFG</u> . Reimbursement is therefore not recommended.
	97035	\$25.30	\$0.00	N	\$22.00	<u>MFG, Medicine Ground Rule (I)(A)(9)(a)(ii), (I)(A)(10)(a-b)</u>	Review of the "S.O.A.P." note dated 7/24/02 does not meet the documentation criteria set forth by the <u>MFG</u> . Reimbursement is therefore not recommended.
	97530	\$40.25	\$0.00	N	\$35.00	<u>MFG, Medicine Ground Rule (I)(A)(10)(a)</u>	Review of the "S.O.A.P." note dated 7/24/02 does not meet the documentation criteria set forth by the <u>MFG</u> . Reimbursement is therefore not recommended.
7/25/02	97010	\$12.65	\$0.00	N	\$11.00	<u>MFG, Medicine Ground Rule (I)(A)(9)(a)(ii), (I)(A)(10)(a-b)</u>	Review of the "S.O.A.P." note dated 7/25/02 does not meet the documentation criteria set forth by the <u>MFG</u> . Reimbursement is therefore not recommended.
	97035	\$25.30	\$0.00	N	\$22.00	<u>MFG, Medicine Ground Rule (I)(A)(9)(a)(ii), (I)(A)(10)(a-b)</u>	Review of the "S.O.A.P." note dated 7/25/02 supports delivery of service.

							Reimbursement is recommended in the amount of \$22.00.
TOTAL		\$669.30	\$70.00		\$452.00		The requestor is entitled to reimbursement of \$22.00.

This Decision is hereby issued this 27<sup>th</sup> 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 7/25/02 through 9/30/02 in this dispute.

This Order is hereby issued this 27<sup>th</sup> day of January 2004.

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

September 27, 2003

**NOTICE OF INDEPENDENT REVIEW DECISION**

**RE: MDR Tracking #: M5-03-2947-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker’s Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier’s adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the \_\_\_ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in occupational medicine, preventive medicine and public health. The \_\_\_ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the

\_\_\_ physician reviewer certified that the review was performed without bias for or against any party in this case.

### Clinical History

This case concerns a male who sustained a work related injury on \_\_\_\_. The patient reported that while at work a box fell on his hand. The patient underwent X-Rays and an MRI of the right hand. The diagnoses for this patient included TFCC Tear right Wrist, Elbow and Joint disorder NEC forearm. The patient was treated with physical therapy for approximately one month after the injury occurred. On 5/16/02 the patient underwent surgery of the right hand and was placed in a cast. The cast was removed in late June of 2002. The patient was evaluated on 7/8/02 and began a therapy program that included therapeutic exercises, massage, electrical stimulation, phonophoresis, hot/cold packs, ultrasound, fluidotherapy and paraffin. The patient was then reevaluated and recommended for discharge from occupational therapy on 8/22/02 and to begin a work hardening program.

### Requested Services

Therapeutic exercises, physical performance test, office visits, hot or cold packs and work hardening from 8/21/02 through 9/30/02.

### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

### Rationale/Basis for Decision

The \_\_\_ physician reviewer noted that this case concerns a male who sustained a work related injury to his right hand on \_\_\_\_. The \_\_\_ physician reviewer also noted that the diagnoses for this patient included TFCC tear right wrist, elbow and joint disorder NEC forearm. The \_\_\_ physician reviewer further noted that treatment for this patient's condition has included surgery, therapy that included therapeutic exercises, massage, electrical stimulation, phonophoresis, hot/cold packs, ultrasound, fluidotherapy, paraffin and a work hardening program. The \_\_\_ physician reviewer indicated that there is little objective information available regarding the effectiveness of work hardening/work conditioning/functional restoration, etc. The \_\_\_ physician reviewer explained that most of the available literature focuses on back and neck pain as a standard, whereas this case involves wrist and hand pain. The \_\_\_ physician reviewer indicated that several studies have identified non-medical parameters, which may influence the success or failure of work hardening programs as well: attorney involvement, pain tolerances; satisfaction with services; and so on. (Cochrance Database Syst. Rev. 2003(1): CD001822. Work 2001; 16(3): 235-43. Clinic J Pain 2001 Dec; 17(4 Suppl): S128-32). The \_\_\_ physician reviewer explained that the goal of the work hardening program is to build the patient's tolerances to the level of his prior job. The \_\_\_ physician reviewer noted that the therapist is working towards the tolerances listed in the Dictionary of Occupational Titles. However, the \_\_\_ physician reviewer noted that this patient's job title could poorly reflect the type of work he actually performed or the work he would perform in a potential occupation. The \_\_\_ physician reviewer indicated that this patient did not have a position to which he would return or apply before he began a work-hardening program. The \_\_\_ physician reviewer noted that the patient showed some moderated increases in work tolerances throughout the course of the program. The \_\_\_ physician reviewer also noted that the goal of treatment was to build the patient's tolerance to the level

that may have been required for his prior job. The \_\_\_ physician reviewer also explained that the patient did benefit from this program. Therefore, the \_\_\_ physician consultant concluded that the therapeutic exercises, physical performance test, office visits, hot or cold packs and work hardening from 8/21/02 through 9/30/02 were medically necessary to treat this patient's condition.

Sincerely,