MDR Tracking Number: M5-03-3015-01

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 07-21-03.

The IRO reviewed therapeutic exercises, joint mobilization, myofascial release and ultrasound rendered from 09-04-02 through 09-16-02, 10-30-02 through 11-08-02 and 02-10-03 (excluding 99213 and 99214) that were 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 $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.

On 09-18-03, 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$	Reference	Rationale
7-25-02	99205	$137.00 (1 unit)	$0.00	L	$137.00	96 MFG E/M GR(VI)(A)	Per TWCC-53 requestor was not the treating doctor of record until 09-06-02. No reimbursement recommended.
7-29-02 7-31-02 (2 DOS)	99213	$96.00 (1 unit @ $48.00 X 2 DOS)	$0.00	L	$48.00	96 MFG E/M GR(VI)(B)	Per TWCC-53 requestor was not the treating doctor of record until 09-06-02. No reimbursement recommended.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$	Reference	Rationale
7-29-02 7-31-02 8-19-02 (3 DOS)	97110	$525.00 (6 units @ $210.00 DOS 7-29-02, 5 units @ $175.00 DOS 7-31-02 and 4 units @ $140.00 DOS 8-19-02)	$0.00	L	$35.00	96 MFG MEDICINE GR (I)(9)(b)	See rationale below. No reimbursement recommended.
8-02-02 8-05-02 8-07-02 8-12-02 8-14-02 (5 DOS)	97110	$665.00 (5 units @ $175.00 on DOS 8-2-02 and 8-12-02, 1 unit @ $35.00 on DOS 8-5-02, 4 units @ $140.00 on DOS 8-7-02 and 8-14-02)	$0.00	D	$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement recommended.
11-13-02	97110	$140.00 (4 units)	$0.00	E	$35.00	96 MFG MEDICINE GR(I)(9)(b)	See rationale below. No reimbursement recommended
7-29-02 7-31-02 8-19-02 (3 DOS)	97265	$129.00 (1 unit @ $43.00 X 3 DOS)	$0.00	L	$43.00	96 MFG MEDICINE GR(I)(9)(c)	Per TWCC-53 requestor was not the treating doctor of record until 09-06-02. No reimbursement recommended
7-29-02 7-31-02 (2 DOS)	97250	$86.00 (1 unit @ $43.00 X 2 DOS)	$0.00	L	$43.00	96 MFG MEDICINE GR(I)(9)(c)	Per TWCC-53 requestor was not the treating doctor of record until 09-06-02. No reimbursement recommended
7-31-02	97035	$22.00 (1 unit)	$0.00	L	$22.00	96 MFG MEDICINE GR(I)(9)(a)(iii)	Per TWCC-53 requestor was not the treating doctor of record until 09-06-02. No reimbursement recommended
8-2-02 through 8-19-02 (6 DOS)	99213	$288.00 (1 unit @ $48.00 X 6 DOS)	$0.00	D	$48.00	Rule 133.307 (g)(3)(A-F)	Requestor nor respondent submitted original denial explanation. Reviewer

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$	Reference	Rationale
							cannot determine reason for denial. No reimbursement recommended.
8-2-02 through 8-16-02 (6 DOS)	$97035	$132.00 (1 unit @ $22.00 X 6 DOS)	$0.00	D	$22.00	Rule 133.307 (g)(3)(A-F)	Requestor nor respondent submitted original denial explanation. Reviewer cannot determine reason for denial. No reimbursement recommended.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$	Reference	Rationale
8-2-02 through 8-16-02 (5 DOS)	97265	$215.00 (1 unit @ $43.00 X 5 DOS)	$0.00	D	$43.00	Rule 133.307 (g)(3)(A-F)	Requestor nor respondent submitted original denial explanation. Reviewer cannot determine reason for denial. No reimbursement recommended.
8-2-02 through 8-16-02 (6 DOS)	97250	$258.00 (1 unit @ $43.00 X 6 DOS)	$0.00	D	$43.00	Rule 133.307 (g)(3)(A-F)	Requestor nor respondent submitted original denial explanation. Reviewer cannot determine reason for denial. No reimbursement recommended.
10-30-02 11-04-02 11-08-02 (3 DOS)	99213	$144.00 (1 unit @ $48.00 X 3 DOS)	$0.00	F	$48.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of $48.00X 3 DOS = $144.00
11-01-02	99214	$71.00 (1 unit)	$0.00	F	$71.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of $71.00
11-13-02 11-22-02 (2 DOS)	99213	$96.00 (1 unit @ $48.00 X 2 DOS)	$0.00	E	$48.00	96 MFG E/M GR(VI)(B)	TWCC-21 filed disputed entitlement to income benefits. Carrier did not raise any issue disputing extent or relatedness. Requestor submitted relevant information to

							support delivery of service. Reimbursement recommended in the amount of $48.00 X 2 DOS = $96.00
11-13-02	97035	$22.00 (1 unit)	$0.00	E	$22.00	96 MFG MEDICINE GR(I)(9)(a)(iii)	TWCC-21 filed disputed entitlement to income benefits. Carrier did not raise any issue disputing extent or relatedness. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of $22.00

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$	Reference	Rationale
11-13-02 11-22-02 (2 DOS)	97265	$86.00 (1 unit @ $43.00 X 2 DOS)	$0.00	E	$43.00	96 MFG MEDICINE GR(I)(9)(c)	TWCC-21 filed disputed entitlement to income benefits. Carrier did not raise any issue disputing extent or relatedness. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of $43.00 X 2 DOS = $86.00
11-13-02 11-22-02 (2 DOS)	97250	$86.00 (1 unit @ $43.00 X 2 DOS)	$0.00	E	$43.00	96 MFG MEDICINE GR(I)(9)(c)	TWCC-21 filed disputed entitlement to income benefits. Carrier did not raise any issue disputing extent or relatedness. Requestor submitted relevant information to support delivery of service. Reimbursement recommended in the amount of $43.00 X 2 DOS = $86.00
11-26-02	99213	$48.00 (1 unit)	$0.00	N	$48.00	96 MFG E/M GR(VI)(B)	Requestor submitted relevant information to meet documentation criteria. Reimbursement recommended in the amount of $48.00
12-03-02	99214	$71.00 (1 unit)	$0.00	N	$71.00	96 MFG E/M GR(VI)(B)	Requestor submitted relevant information to

							meet documentation criteria. Reimbursement recommended in the amount of $71.00
12-09-02	99213	$48.00 (1 unit)	$0.00	N	$48.00	96 MFG E/M GR(VI)(B)	Requestor submitted relevant information to meet documentation criteria. Reimbursement recommended in the amount of $48.00
TOTAL		$3,365.00	$0.00				Requestor is entitled to reimbursement in the amount of $672.00

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.

This Decision is hereby issued this 2nd day of June 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

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 09-04-02 through 02-10-03 in this dispute.

This Order is hereby issued this 2nd day of June 2004.

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

September 17, 2003

IRO Certificate #5259
MDR Tracking Number: M5-03-3015-01

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 received physical medicine procedures after injuring both right and left ankles.

REQUESTED SERVICE (S)
Therapeutic exercises, joint mobilization, myofascial release and ultrasound for 9/4/02 through 9/16/02, 10/30/02 through 11/8/02 (excluding 99213 and 99214) and 2/10/03

DECISION
Reverse prior denial. Services approved.

RATIONALE/BASIS FOR DECISION
The physician's thorough examination and treatment notes adequately document the medical necessity for the treatments rendered for the dates in question.

YOUR RIGHT TO REQUEST A HEARING

Either party to this medical dispute may disagree with all or part of the decision and has a right to request a hearing.

If disputing a spinal surgery prospective decision a request for a hearing must be in writing, and it must be received by the TWCC Chief Clerk of Proceedings within **10** (ten) calendar days of your receipt of this decision (20 Tex. Admin. Code 142.5©)

If disputing other prospective medical necessity (preauthorization) decisions a request for a hearing must be in writing, and it must be received by the TWCC Chief

Clerk of Proceedings within **20** (twenty) calendar days of your receipt of this decision (28 Tex. Admin. Code 148.3)

This decision is deemed received by you 5 (five) days after it was mailed or the date of fax (28 Tex. Admin. Code 102.4(h) or 102.5(d)). A request for a hearing and a **copy of this decision** must be sent to:

Chief Clerk of Proceedings/Appeals Clerk
Texas Workers' Compensation Commission
P.O. Box 17787
Austin, Texas 78744

Or fax the request to (512) 804-4011. A copy of this decision must be attached to the request.

The party appealing the decision shall deliver a copy of its written request for a hearing to the opposing party involved in the dispute.

In accordance with Commission Rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent to the carrier, the requestor and claimant via facsimile or U.S. Postal Service from the office of the IRO on this 25th day of May 2004.