

MDR Tracking Number: M5-03-3017-01

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 22, 2003.

The IRO reviewed therapeutic exercises rendered from 5/7/03 through 5/23/03 denied based upon "U".

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 September 19, 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 the respondent failed to submit copies of original EOBs, therefore the disputed charges will be reviewed according to the Medical Fee Guideline.

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

DOS	CPT CODE	Billed	Paid	EOB Denial Code	Reference	Rationale
3/24/03	97110 x 3 units	\$150.00	\$0.00	O	<u>MFG, Medicine Ground Rule</u> (I)(A)(9)(b), (I)(A)(10)(a) & (I)(A)(11)(a)	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
3/26/03	97110 x 3 units	\$150.00	\$0.00	O		
3/28/03	97110 x 3 units	\$150.00	\$0.00	O		
3/31/03	97110 x 3 units	\$150.00	\$0.00	O		
4/7/03	97110 x 3 units	\$150.00	\$0.00	O		
4/9/03	97110 x 3 units	\$150.00	\$0.00	O		

4/11/03	97110 x 3 units	\$150.00	\$0.00	O	<p>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 daily notes did not indicate whether the doctor was conducting exclusively one-to-one sessions with the claimant, the notes did not clearly indicate activities that would require a one-on-one therapy session, the notes did not indicate the type of activity/therapy, 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.</p>	
4/14/03	97110 x 3 units	\$150.00	\$0.00	O		
4/16/03	97110 x 3 units	\$150.00	\$0.00	O		
4/17/03	97110 x 3 units	\$150.00	\$0.00	O		
4/21/03	97110 x 3 units	\$150.00	\$0.00	O		
4/23/03	97110 x 3 units	\$150.00	\$0.00	O		
4/25/03	97110 x 3 units	\$150.00	\$0.00	O		
4/28/03	97110 x 3 units	\$150.00	\$0.00	O		
4/30/03	97110 x 3 units	\$150.00	\$0.00	O		
5/2/03	97110 x 3 units	\$150.00	\$0.00	O		
5/5/03	97110 x 3 units	\$150.00	\$0.00	O		
TOTAL		\$2,550.0 0	\$0.00			The requestor is not entitled to reimbursement.

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 5/7/03 through 5/23/03 in this dispute.

This Order is hereby issued this 5th day of February 2004.

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

IRO Certificate #4599

NOTICE OF INDEPENDENT REVIEW DECISION

September 17, 2003

Re: IRO Case # M5-03-3017-01

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Orthopedic Surgery, and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting 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 referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient is a 50-year-old male who injured his right knee on ___ while he was pulling a heavy load and twisted the knee. He experienced a pop in his knee. Physical examination revealed medial joint line tenderness with evidence of anterior instability. An MRI of the right knee demonstrated evidence of a torn anterior cruciate ligament, and a bucket handle tear of the medial meniscus. Surgery to the right knee was performed on 2/11/03, including arthroscopic assisted ACL reconstruction using an allograft and resection of the medial meniscus tear. Following surgery, the patient developed some hemarthrosis, and he underwent arthrocentesis in the office.

Requested Service(s)

Therapeutic exercises 5/7/03-5/23/03

Decision

I disagree with the carrier's decision to deny the requested treatment.

Rationale

The patient works as a carpenter foreman, and his job requires a heavy level work capacity. The patient underwent reconstructive knee surgery on 2/11/03. It usually requires at least six months of rehabilitation to achieve maximum medical improvement following ACL reconstruction. Taking the patient's age of 50 years into consideration, he will likely require the full six months to achieve MMI. An FCE was performed on 5/19/03, and this evaluation demonstrated that the patient had received a medium level of work capacity. He will need to achieve a heavy work level capacity to be able to return to his previous job duties.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Sincerely,