

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

**SOAH DOCKET NO. 453-04-2851.M5**

MDR Tracking Number: M5-03-3021-01

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 September 24, 2003. Requestor did submit a corrected table indicating that services from 12-13-01 to 02-01-02 had been paid.

The IRO reviewed office visits, therapeutic procedures, myofascial release, electrical stimulation, ultrasound, hot or cold packs, and special reports rendered from 03-12-02 through 04-12-02 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity for myofascial release, electrical stimulation, ultrasound, and hot or cold packs.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity office visits, therapeutic procedures, and special reports. 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 September 24, 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 (Maximum Allowable Reimbursement)	Reference	Rationale
03-21-02	95900	490.00		K	448.00		Test was not submitted to substantiate delivery of services. Interpretation list ___ as reviewing physician not the requestor. In accordance with Rule 134.1(b) a healthcare provider cannot bill for service he did not performed.
	95904	210.00		K	192.00		
	95935	120.00		K	106.00		
TOTAL		\$820.00					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 03-12-02 through 04-12-02 in this dispute.

This Decision is hereby issued this 8<sup>th</sup> day of January 2004.

Georgina Rodriguez  
 Medical Dispute Resolution Officer  
 Medical Review Division

September 22, 2003

Re: MDR #: M5-03-3021-01  
 IRO Certificate No.: IRO 5055

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine.

**Clinical History:**

This male claimant was injured in a work-related accident on \_\_\_ that resulted in multiple areas of injury. He was evaluated in the hospital emergency room. Additional diagnostic testing was performed that confirmed the extent of his injuries. Positive exam findings were present. An

intensive passive therapy program was begun that progressed to an active therapy program. Throughout the active phase of rehab, the patient continued to receive passive therapies. In addition, the patient was prescribed medication.

**Disputed Services:**

Office visits, electrical stimulation, myofascial release, tissue mobilization, therapeutic procedures, ultrasound, hot/cold packs, and special reports for the period of 03/12/02 through 03/20/02; 03/21/02 (CPT codes 99213, 99080, 97110, 97014, 97010 only); and 03/22/02 through 04/12/02.

**Decision:**

The reviewer partially agrees with the determination of the insurance carrier as outlined in the following rationale.

**Rationale:**

There are no National Guidelines that allow for passive therapeutic modalities to continue to be utilized four months after the initial date of injury.

All passive therapies rendered during the time period in question (codes 97250, 97014, 97035, 97010) were not reasonable, customary or medically necessary.

However, office visits (codes 99211, 99213), as well as therapeutic procedures (97110) rendered during the dates in dispute were, reasonable, customary and medically necessary for the evaluation and treatment of the patient's injury.

There is sufficient documentation to warrant each office visit, as well as each session of therapeutic procedures. Special reports (99080) dated 03/21/02, was medically necessary to report the patient's current condition.

I am the Secretary and General Counsel of \_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,