

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

SOAH DOCKET NO: 453-04-5077.M5

MDR Tracking Number: M5-03-3213-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 8-8-03.

The IRO reviewed office visits, massage, neuromuscular re-education, gait training, therapeutic activities, joint mobilization, and therapeutic procedures from 1-27-03 through 3-5-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 10-6-03, 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.

Although the requestor submitted additional documentation, the documentation did not support delivery of service for the fee component for dates of service 10-25-02 through 1-24-03 in accordance with Rule 133.307(g)(3)(A-F). No reimbursement recommended.

This Decision is hereby issued this 1st day of March 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

October 3, 2003

Amended February 6, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-03-3213-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to ___ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

___ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to ___ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

CLINICAL HISTORY

___, a 27-year-old male, sustained an on the job injury to his mid back and right shoulder on ___. He was changing a tire on a bus, when the tire slipped off, rolling on top of him causing him to fall backwards, landing on his right side. He developed some pain to his right shoulder and upper back area and so consulted with ___, where he was seen by a variety of providers. It appears that there was some confusion as to which providers actually saw him, the file contains a couple of affidavits from the "assigned providers" stating that they did not in fact provide treatment after certain dates when the records indicate that they did. The patient had a variety of diagnostic tests performed, including MRIs of the thoracic spine and right shoulder, the MRI of the right shoulder was consistent with impingement with an inflammatory response. Thoracic spine MRI was negative. He underwent diagnostic and therapeutic injections (___, an orthopedic surgeon), which provided to complete resolution of symptoms for a while. The patient subsequently changed treating doctors to ___ and continued with a variety of

comprehensive conservative treatments, including work conditioning and was finally placed at maximum medical improvement on 7/22/03, assigned a 12% whole person impairment comprised of 5% specific disorders of the thoracic spine and 7% whole person impairment due to the right shoulder range of motion.

Various services have been denied for payment between the dates 1/7/03 through 3/5/03, based on medical necessity and is thus referred for medical dispute resolution purposes through the IRO process.

DISPUTED SERVICES

Under dispute is the medical necessity of massage therapy, office visits, neuromuscular re-education, gait training, therapeutic activities, joint mobilization and therapeutic procedures.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

1/. Concerning office visits 99213: The reviewer does not find establishment of medical necessity for this service for any of the disputed dates.

The treatment notes and documentation overall all appear to be of the computerized, "canned" variety. They are repetitious, contain minimally clinically useful information and do not show significant progress / substantive change in treatment, given the lack of progress with the course of care. Unfortunately this provides precious little clinical insight as to the patient's status, his progression or improvement/response to care. There is no justification for a 99213 E&M code to be billed for each encounter, and the documentation does not support the criteria for this level of service.

2/. Concerning codes 97112 (neuromuscular reeducation) and 97116 (gait training): The reviewer does not find establishment of medical necessity for these services for any of the disputed dates.

By ___, the patient was 10 weeks post injury for by most accounts was a simple thoracic sprain/strain and reactive shoulder impingement. He had already undergone considerable treatment including active therapies. It appeared that he would be continuing with a focused rehabilitation/strengthening program for the right shoulder and upper back. There is no justification provided for gait training/neuromuscular reeducation, nor is there any indication of just what this comprised.

3/. Concerning code 97265 (joint mobilization): The reviewer does not find establishment of medical necessity for this service for any of the disputed dates.

It does not seem reasonable to continue with joint mobilization almost 3 months into the treatment course in conjunction with active exercises. There is no indication of the rationale for joint mobilization, improvement with the application of numerous "joint mobilization's" nor the types of "mobilization's" performed. This would be expected in terms of any reasonable outcome assessment in order for continued application to be provided.

5/. Concerning code 97530 (kinetic therapy): The reviewer does not find establishment of medical necessity for this service for any of the disputed dates.

There is no indication of the functional activities performed for "kinetic activity". There are some indication of some exercises being performed, and however they do not include any documentation of weight/resistance amounts, number of reps or progression, etc. indicating any response or improvement with therapies provided.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,