

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

SOAH DOCKET NO. 453-04-3780.M5

MDR Tracking Number: M5-03-3229-01

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 8-11-03.

The IRO reviewed office visits w/manipulations, therapeutic exercises, therapeutic procedures, myofascial release, spray and stretch, electrical stimulation, and traction from 3-17-03 through 6-27-03 that were denied as not medically necessary.

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.

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

On 10-15-03, 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	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
1-27-03	99213M	\$48.00x3	\$0.00	No	\$48.00	96 MFG Med GR I B 1 b; I A 10 a; I C; Rule 129.5 and Rule 133.307(g)(3)	Documentation submitted supports delivery of services except for the required report. Recommend reimbursement of \$425.00.
1-29-03	P	\$23.00x3		EOB	\$22.00		
1-31-03	97032	\$27.00x3			\$DOP		
	97139-	\$45.00x3			\$43.00		
	SS	\$15.00			\$15.00		
	97250	\$45.00x2			\$43.00		
	99080-73						
	97265						

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
3-5-03 3-7-03 3-12-03	99213M P 97530 97112 97110	\$48.00x3 \$76.00x3 \$114.00x3 \$114.00x3	\$0.00	No EOB	\$48.00 \$35.00 ea 15 min \$35.00 ea 15 min \$35.00 ea 15 min	96 MFG Med GR I B 1 b; I A 10 a; Rule 133.307(g(3))	Documentation submitted supports delivery of services on 3-5-03 and 3-12-03. Recommend reimbursement of \$118.00 x 2 = \$236.00. Documentation submitted supports delivery of office visit w/manip only on 3-7-03. Recommend reimbursement of \$48.00. See RATIONALE below for code 97110.
3-10-03 3-26-03	97032 97012	\$23.00x2 \$23.00x2	\$0.00	No EOB	\$21.00	96 MFG Med GR I A 10 a; Rule 133.307(g(3))	Documentation submitted supports delivery of service for electrical stimulation only on 3-10-03. Recommend reimbursement of \$21.00.
3-14-03	99213M P 97530 97112 97110 97032	\$48.00 \$76.00 \$114.00 \$114.00 \$23.00	\$0.00	No EOB	\$48.00 \$35.00 ea 15 min \$35.00 ea 15 min \$35.00 ea 15 min \$21.00	96 MFG Med GR I B 1 b; I A 10 a; Rule 133.307(g(3))	Documentation submitted supports delivery of service for office visit w/manip and electrical stimulation only. Recommend reimbursement of \$69.00.
TOTAL		\$2,102.00	\$0.00				The requestor is entitled to reimbursement of \$799.00

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 97110 because the daily notes did not clearly indicate activities that would require exclusive one-on-one therapy sessions.

The above Decision is hereby issued this 2nd day of February 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

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 6-3-02 through 10-9-02 in this dispute.

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

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

October 15, 2003

Re: MDR #: M5-03-3229-01
IRO Certificate No.: IRO 5055

REVISED REPORT **(Dates of service)**

___ 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:

The patient injured his low back on ___. He felt lumbar back pain radiating into the bilateral lower extremities; right being greater than left.

In January 2003, an aggressive treatment program was begun by the patient's treating doctor. In addition, additional diagnostic testing and orthopedic evaluation consult was requested. The lumbar MRI dated 01/21/03 revealed disk desiccation at L2-L3 and minimal disk bulge present at L2-L3 and L5-S1.

Due to continual problems, the patient was scheduled and received a lumbar myelogram on 03/03/03. This test, in essence, revealed an unimpressive lumbar myelogram. Treatment continued, and the patient received a lumbar ESI on 05/20/03.

Disputed Services:

Office visits with manipulation, therapeutic procedures and exercise, myofascial release, unlisted procedure/SS, electrical stimulation, and traction, for dates of service 03/17/03 through 06/27/03, with the exception of 03/26/03.

Decision:

The reviewer disagrees with the insurance carrier. The services in question were medically necessary in this case.

Rationale:

National Treatment Guidelines allow for treatment of injuries of this nature utilizing chiropractic care, passive therapy with a progression into active therapy. Such is the situation with this case. There is sufficient documentation on each date of service to clinically justify and warrant the treatment rendered on that date of service as well as to warrant ongoing treatment. Over the course of treatment, on occasion there were documented exacerbations. Based upon the findings of the MRI and myelogram, this patient's condition did not appear to be surgical. Therefore, continued conservative care in the form of chiropractic care, occasional passive care, and active therapy as well as injections, were warranted. Continued treatment in conjunction with lumbar injections was warranted.

In summary, all services rendered from 03/17/03 through 06/27/03, with the exception of 03/26/03 were, in fact, reasonable, usual, customary and medically necessary for the treatment of this patient's on-the-job injury.

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,