

MDR Tracking Number: M5-03-3237-01

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 kinetic activities, hot/cold packs, therapeutic procedure, unlisted physical therapy, supplies, and electrical stimulation provided to the patient from 6-23-03 through 7-2-03 that were denied as unnecessary medical.

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 10-13-03, 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 (Max. Allowable Reimbursement)	Reference	Rationale
5/27/03	97010 97032 97110 97530 97139PH 99070	\$68.00 \$40.00 \$50.00 \$150.00 \$46.00 \$12.00	\$0.00	D	\$11.00 \$22.00 ea 15 min \$35.00 ea 15 min \$35.00 ea 15 min DOP DOP	96 MFG Med GR I A 9 a, b; I A 11 b; I C 1 r; GI IV; Rule 133.307(g)(3)	Neither party submitted an original EOB; therefore, services were reviewed per the MFG. Treatment Program note supports delivery of service for 97010, 97032 and 99070. Reimbursement for 97010 is \$11.00 no matter how many areas are treated. Notes only support one unit of 97032. Notes did not support delivery of services for phonophoresis or therapeutic activities. Notes only supported time spent in therapeutic activities. Recommend reimbursement of

							\$11.00 + \$20.00 + \$12.00 = \$43.00. See RATIONALE below for code 97110.
TOTAL		\$366.00	\$0.00				The requestor is entitled to reimbursement of \$43.00.

**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.

**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 date of service 5-27-03 in this dispute.

This Order is hereby issued this 6<sup>th</sup> day of February 2004.

Dee Z. Torres  
 Medical Dispute Resolution Officer  
 Medical Review Division

October 8, 2003

Amended February 3, 2004

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

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 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 Medical Doctor board certified and specialized in Occupational Medicine. 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

\_\_\_ sustained a work-related injury on \_\_\_ at \_\_\_. She apparently caught a 300-pound male as he fainted and fell. She lowered him to the floor and she began with pain to her back. This patient has had three epidural steroid injections and felt much better but still had pain. She was seeing a physician in \_\_\_. Her MRI scan showed a herniated nucleus pulposus at L4/5 and bulging disc at the L5/S1 level. The pertinent past medical history shows that she apparently had an injury to her back in \_\_\_ for which she received treatment.

#### DISPUTED SERVICES

Under dispute is the medical necessity of kinetic activities, hot or cold packs, therapeutic procedure, unlisted physical therapy, supplies and electrical stimulation provided to this patient from 6/23/03 through 7/2/03.

#### DECISION

The reviewer agrees with the prior adverse determination.

#### BASIS FOR THE DECISION

According to the notes provided for review, \_\_\_ had been given approximately 32 treatments of modalities and traction, with no improvement. That was approximately ten weeks of treatment. Therefore, by the time of the dates in question for this report, especially if there was no improvement, no further modalities or traction would be indicated.

If, indeed, \_\_\_ had herniated nucleus pulposus and bulging disc on the MRI, if she had positive straight leg raising, and if she had any complaints of radiculopathy, other work-up and treatment would be indicated. Furthermore, \_\_\_ notes that this patient had a back injury in \_\_\_, although the nature of that injury is not available.

Based on the medical information available for review, after 32 treatments with moist heat, electrical muscle stimulation, ultrasound, phonophoresis and decompression therapy, all with no apparent improvement, no further treatment was indicated.

Therefore, the \_\_\_ reviewer finds that there is no documentation to support the medical necessity of kinetic activities, hot or cold packs, therapeutic procedure, unlisted physical therapy, supplies and electrical stimulation provided from 5/27/03 through 7/2/03.

\_\_\_ 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,