MDR Tracking Number: M5-03-3288-01

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 08-01-03.

The IRO reviewed office visits, office visits with manipulation, ultrasound therapy, hot/cold pack therapy, spray and stretch, massage therapy, therapeutic exercises, electrical stimulation, paraffin bath therapy and physical performance testing rendered from 08-01-02 through 03-20-03 that was denied based upon "V".

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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 11-04-03, 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	MAR$	Reference	Rationale
8-1-02 through 11-13-02 (2 DOS)	99211	$18.00 (1 unit)	$0.00	No EOB	$18.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service for DOS 8-1-02. Requestor did not submit relevant information to support delivery of service for DOS 11-13-02. Reimbursement is recommended in the amount of $18.00
8-7-02 through 12-26-02 (2 DOS)	99080-73	$15.00 (1 unit)	$0.00	F, No EOB	DOP	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support DOP criteria for DOS 08-07-02. Requestor did not submit relevant information to support DOP criteria for DOS 12-26-02. Recommend reimbursement in

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$	Reference	Rationale
							amount $15.00
8-28-02 through 12-26-02 (3 DOS)	97139-SS	$35.00 (1 unit)	$17.50 on DOS 10-21-02	No EOB, H	DOP	Rule 133.307 (g)(3)(A-F)	No EOB – Requestor submitted relevant information to support DOP criteria for DOS 8-28-02. Requestor did not submit relevant information to support DOP criteria for DOS 12-26-02. No reimbursement recommended. H – Requestor submitted relevant information to support DOP criteria for DOS 10-21-02. Additional reimbursement recommended in the amount of $52.50 ($35.00 X 2 DOS - $17.50 payment).
10-18-02 through 12-26-02 (4 DOS)	99213-MP	$48.00 (1 unit)	$0.00	No EOB	$48.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service for DOS 12-13-02. Requestor did not submit relevant information to support service for DOS 10-18-02, 11-9-02 and 12-26-02. Reimbursement is recommended in the amount of $48.00
10-17-02 to 12-26-02 (5 DOS)	97032	$22.00 (1 unit)	$22.00 ($11.00 on DOS 10-17-02 and $11.00 on DOS 10-21-02)	No EOB, H	$22.00	Rule 133.307 (g)(3)(A-F)	No EOB – Requestor did not submit relevant information to support delivery of service for DOS 10-8-02, 11-9-02 and 12-26-02. No reimbursement is recommended. H – Requestor submitted relevant information to support delivery of service for DOS 10-17-02 and 10-21-02. Additional reimbursement recommended in amount of $22.00 ($11.00 X 2 DOS)
10-17-02 through	97110	$140.00 (4 units)	$0.00	No EOB,	$35.00	Rule 133.307 (g)(3)(A-F)	See rationale below. No reimbursement is

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR$	Reference	Rationale
12-26-02 (6 DOS)				H			recommended.
10-17-02	97035	$22.00 (1 unit)	$11.00	H	$22.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Additional reimbursement recommended in amount of $11.00
10-17-02 through 12-26-02 (5 DOS)	97124	$28.00 (1 unit)	$28.00 ($14.00 on DOS 10-17-02 and $14.00 on DOS 10-21-02)	No EOB, H	$28.00	Rule 133.307 (g)(3)(A-F)	No EOB – Requestor did not submit relevant information to support delivery of service for DOS 10-18-02, 11-9-02 and 12-26-02. No reimbursement recommended. H – Requestor submitted relevant information to support delivery of service for DOS 10-17-02 and 10-21-02. Additional reimbursement recommended in amount of $28.00 ($14.00 X 2 DOS)
11-9-02 through 11-19-02 (2 DOS)	97010	$11.00 (1 unit)	$0.00	No EOB	$22.00	Rule 133.307 (g)(3)(A-F)	Requestor did not submit relevant information to support delivery of service. No reimbursement recommended.
1-15-03	99214	$75.00 (1 unit)	$0.00	No EOB	$71.00	Rule 133.307 (g)(3)(A-F)	Requestor submitted relevant information to support delivery of service. Reimbursement is recommended in the amount of $71.00
TOTAL		$1,572.00	$785.00		$1,568.00		The requestor is entitled to reimbursement in the amount of $265.50

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.

This Finding and Decision is hereby issued this 10th day of March 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Dispute Resolution

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 8-01-02 through 03-20-03 in this dispute.

This Order is hereby issued this 10th day of March 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

NOTICE OF INDEPENDENT REVIEW DECISION **Amended Letter**
Note: Decision

October 30, 2003

MDR Tracking #: M5-03-3288-01
IRO Certificate #: IRO 4326

The ___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the

above referenced 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 rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. ___'s health care professional has signed a certification statement stating 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 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 this case.

Clinical History
This patient sustained an injury to her thumb on ___ and was diagnosed with strained ligaments at the base of the left thumb. She was treated with a splint and anti-inflammatory medication. An MRI performed 08/09/01 revealed a partial tear of the radial collateral ligament at the first metacarpophalangeal joint for which she underwent surgical repair on 09/12/02. The patient continued with physical therapy post operatively.

Requested Service(s)
Office visits, office visits with manipulation, ultrasound therapy, hot/cold pack therapy, spray and stretch, massage therapy, therapeutic exercises, electrical stimulation, paraffin bath therapy, and physical performance testing from 08/01/02 through 03/20/03

Decision
It is determined that the office visits and office visits with manipulation from 08/29/02 through 10/06/02, ultrasound therapy, massage therapy, electrical stimulation, hot/cold pack therapy, and paraffin bath therapy from 08/29/02 through 11/06/02, spray and stretch from 08/29/02 through 10/06/02, and therapeutic exercises from 08/01/02 through 12/08/02 were medically necessary to treat this patient's condition. However, the office visits and office visits with manipulation from 08/01/02 through 08/28/02 and 10/07/02 through 03/20/03, ultrasound therapy, massage therapy, electrical stimulation, hot/cold pack therapy, and paraffin bath therapy from 08/01/02 through 08/28/02 and after 11/07/02, spray and stretch from 08/01/02 through 08/28/02 and from 10/07/02 through 03/20/03, therapeutic exercises after 12/09/02, and physical performance testing on 01/28/03 were not medically necessary to treat this patient's condition.

Rationale/Basis for Decision
This patient began chiropractic treatments well before 08/01/02 and her treatments from 08/01/02 through 08/28/02 consisted of the use of passive physical therapy treatments (ultrasound, spray and stretch, electrical stimulation, massage, hot/cold pack therapy, and paraffin bath therapy) and brief office visits which were not medically necessary to treat the patient's condition. She already had a considerable amount of passive and active care that was unsuccessful in relieving her symptoms. The continuation of further passive care in light of the patient's failed treatments prior to

the inception of chiropractic care was not medically necessary and the patient was already scheduled for surgical intervention.

The patient underwent surgical treatment of the collateral ligament on 09/12/02 and was referred back to the chiropractor for post operative therapy on 10/14/02. She began a course of office visits, hot packs, spray and stretch, electrical stimulation, massage and therapeutic exercises.

The passive physical therapy treatments rendered from 10/07/02 through 03/20/03 included spray and stretch, ultrasound, electrical stimulation, and massage. Spray and stretch was administered in tandem with massage on all dates that it was billed and the concomitant use of spray and stretch with massage was not medically necessary, as both were soft tissue mobilization techniques. Therefore, spray and stretch used from 10/07/02 through 03/20/03 were not medically necessary.

The use of passive physical therapy treatments (massage, ultrasound, hot/cold packs therapy, paraffin bath therapy, and electrical stimulation) was not necessary after the first month of post operative treatment, 11/07/02.

The use of therapeutic exercises in the treatment of the patient post-surgically was not medically necessary after 12/09/02, which was eight weeks after beginning rehabilitation. The doctor provided no medical records from 10/07/02 through 02/11/03. The rehabilitation sessions were one hour in duration from 10/07/02 through 11/14/02 and the sessions averaged 30 minutes each from 11/20/02 through 12/09/02. Sessions were increased to two hours per session from 12/13/02 through 02/11/03 and the medical records reviewed provided no documentation supportive of the degree of care noted in this case. The records contained no specifics related to the following usual and customary chart entries associated with the use of rehabilitation treatment:

Type of exercise utilized
Increases in repetitions
Increases in weight moved during exercise
Increases in range of motion
Increases in endurance

Halderman et al indicated that the patient's records must be sufficiently complete to provide reasonable information requested by a subsequent healthcare provider, insurance company, and/or attorney. A dated record of what occurred on each visit and any significant changes in the clinical picture or assessment, or treatment plan need to be noted *(Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993).* The records in this case did not provide any of the above-noted information and they did not provide documentation supporting the medically necessity of the care rendered. Therefore, it is determined that the office visits and office visits with manipulation from 08/29/02 through 10/06/02, ultrasound therapy, massage therapy, electrical stimulation, hot/cold pack therapy, and paraffin bath therapy from 08/29/02 through 11/06/02, spray and stretch from 08/29/02 through 10/06/02, and therapeutic exercises from 08/01/02 through 12/08/02 were medically necessary. However, the office visits and office visits with manipulation from 08/01/02 through 08/28/02 and 10/07/02 through 03/20/03, ultrasound therapy, massage therapy, electrical stimulation, hot/cold pack therapy, and paraffin bath therapy from 08/01/02 through 08/28/02 and after 11/07/02, spray and stretch from 08/01/02 through 08/28/02 and from 10/07/02 through 03/20/03, therapeutic exercises after 12/09/02, and physical performance testing on 01/28/03 were not medically necessary.

Sincerely,