

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

SOAH DOCKET NO. 453-04-4184.M5

MDR Tracking Number: M5-03-3303-01

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 August 15, 2003.

The IRO reviewed office visits, joint mobilization, myofascial release, electrical stimulation, therapeutic exercises, therapeutic activities, aquatic therapy, group therapeutic procedures, whirlpool therapy rendered from 10/28/02 through 3/28/03 that was denied based upon "U".

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 \$650.00** 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 October 31, 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.

Both the requestor and the respondent failed to submit copies of original EOBs for the dates of service noted below. Therefore the dates of service denied as "D-duplicate bill" will be reviewed according to the Medical Fee Guideline.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	Reference	Rationale
10/28/02	99205	\$140.00	\$0.00	F	<u>MFG, Evaluation/ Management Ground Rule (VI)(A)</u>	The requestor failed to submit relevant information to support delivery of service. Reimbursement is not recommended.
11/1/02	97265	\$43.00	\$0.00	D	<u>MFG, Medicine Ground</u>	The requestor failed to submit

					<u>Rule (I)(A)(9)(c), (I)(A)(10)(a) & (I)(A)(C)(3)</u>	relevant information to support delivery of service. Reimbursement is not recommended.
	97250	\$86.00	\$0.00	D	<u>MFG, Medicine Ground Rule (I)(A)(9)(c), (I)(A)(10)(a) & (I)(A)(C)(3)</u>	The requestor failed to submit relevant information to support delivery of service. Reimbursement is not recommended.
	97110	\$35.00	\$0.00	D	<u>MFG, Medicine Ground Rule (I)(A)(9)(b), (I)(A)(10)(a) & (I)(A)(11)(a)</u>	The requestor failed to submit relevant information to support delivery of service. Reimbursement is not recommended.
	97530	\$35.00	\$0.00	D	<u>MFG, Medicine Ground Rule (I)(A)(9)(c), (I)(A)(10)(a)</u>	The requestor failed to submit relevant information to support delivery of service. Reimbursement is not recommended.
	97530	\$35.00	\$0.00	D	<u>MFG, Medicine Ground Rule (I)(A)(9)(c), (I)(A)(10)(a)</u>	The requestor failed to submit relevant information to support delivery of service. Reimbursement is not recommended.
11/26/02	97113	\$52.00	\$0.00	D	<u>MFG, Medicine Ground Rule (I)(A)(9)(b), (I)(A)(10)(a)</u>	The requestor failed to submit relevant information to support delivery of service. Reimbursement is not recommended.
	97113	\$52.00	\$0.00	D	<u>MFG, Medicine Ground Rule (I)(A)(9)(b), (I)(A)(10)(a)</u>	The requestor failed to submit relevant information to support delivery of service. Reimbursement is not recommended.
	97113	\$52.00	\$0.00	D	<u>MFG, Medicine Ground Rule (I)(A)(9)(b), (I)(A)(10)(a)</u>	The requestor failed to submit relevant information to support delivery of service. Reimbursement is not recommended.
	97150	\$30.00	\$0.00	D	<u>MFG, Medicine Ground Rule (I)(A)(9)(b), (I)(A)(10)(a)</u>	The requestor failed to submit relevant information to support delivery of service. Reimbursement is not recommended.
	97150	\$30.00	\$0.00	D	<u>MFG, Medicine Ground Rule (I)(A)(9)(b), (I)(A)(10)(a)</u>	The requestor failed to submit relevant information to support delivery of service. Reimbursement is not recommended.
	97150	\$30.00	\$0.00	D	<u>MFG, Medicine Ground</u>	The requestor failed to submit

					<u>Rule (I)(A)(9)(b), (I)(A)(10)(a)</u>	relevant information to support delivery of service. Reimbursement is not recommended.
	97022	\$25.00	\$0.00	D	<u>MFG, Medicine Ground</u> <u>Rule (I)(A)(9)(a)(ii), (I)(A)(10)(a-b)</u>	The requestor failed to submit relevant information to support delivery of service. Reimbursement is not recommended.
TOTAL		\$645.00	\$0.00			The requestor is not entitled to reimbursement.

This Decision is hereby issued this 30th day of January 2004.

Margaret Q. Ojeda
 Medical Dispute Resolution Officer
 Medical Review Division
 MQO/mqo

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 10/28/02 through 3/28/03 in this dispute.

This Order is hereby issued this 30th day of January 2004.

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

October 29, 2003

NOTICE OF INDEPENDENT REVIEW DECISION

RE: MDR Tracking #: M5-03-3303-01

___ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). ___ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ___ for independent review in accordance with this Rule.

___ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the ___ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement.

This physician is board certified in physical medicine and rehabilitation. The ___ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ___ for independent review. In addition, the ___ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 47 year-old female who sustained a work related injury on ___. The diagnosis for this patient have included recurrent herniated nucleus pulposus L1-L2. The patient has undergone a lumbar laminectomy with fusion at the L1-L2 levels in June of 2000, and on March 2, 2002 the patient underwent a left thoracotomy with lumbar discectomy and decompression at L1-L2. Treatment for this patient has included manual therapies, gait training, electrical muscle stimulation, physical therapy and massage therapy.

Requested Services

Office visit 99215, joint mobilization 97265, myofascial release 97250, electrical stimulation 97032, therapeutic exercises 97110, therapeutic activities 97530, aquatic therapy 97113, group therapeutic procedures 97150 and whirlpool therapy 97022 from 10/28/02 through 3/28/03

Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is overturned.

Rationale/Basis for Decision

The ___ physician reviewer noted that this case concerns a 47 year-old female who sustained a work related injury to her lumbar spine on ___. The ___ physician reviewer also noted that the diagnoses for this patient included recurrent herniated nucleus pulposus at the L1-L2 level. The ___ physician reviewer indicated that the patient underwent a lumbar laminectomy with fusion in June of 2000 and on March 2, 2002 the patient underwent a left thoracotomy with lumbar discectomy and decompression at L1-L2. The ___ physician reviewer also indicated that the patient began physical therapy 4 ½ months postoperatively initially with only passive modalities for three times a week and then strengthening exercises to back, abdomen, hips and neck. The ___ physician reviewer explained that the goal of the therapy was to decrease pain, increase range of motion, increase strength and improve gait. The ___ physician reviewer noted that there were periodic reevaluations of the patient lumbar spine range of motion and strength and it was indicated that some of the goals were partially achieved by 3/28/03. The ___ physician reviewer explained that the patient's pain level did not change significantly, gait pattern had remained abnormal, although she was correcting with cues, there was modest improvement in range of motion and strength and lumbar spine flexion had increased and left hip strength had increased.

The ___ physician reviewer explained that although the patient's pain/gait/abdominal strength did not improve much, the patient demonstrated fairly good gains in range of motion of the lumbar spine and strength in left hip/ and right hip/knee. The ___ physician reviewer also explained that the patient most likely had decreased range of motion and deconditioning following surgery because she could not exercise much due to fusion not being solid immediately postoperatively. Therefore, the ___ physician consultant concluded that the office visit 99215, joint mobilization 97265, myofascial release 97250, electrical stimulation 97032, therapeutic exercises 97110, therapeutic activities 97530, aquatic therapy

97113, group therapeutic procedures 97150 and whirlpool therapy 97022 from 10/28/02 through 3/28/03 were medically necessary to treat this patient's condition at this time.

Sincerely,