

MDR Tracking Number: M5-03-3304-01

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 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 08-13-03.

The IRO reviewed aquatic therapy, therapeutic exercises and whirlpool therapy rendered from 10-23-02 through 10-25-02 that were denied based upon "U".

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

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 23, 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.

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

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
09-25-02	97113	\$312.00	0.00	N	\$52.00	MFG MGR (I)(A)(9)(b)	Soap notes do not confirm delivery of service. Reimbursement is not recommended
09-27-02	97113	\$312.00	0.00	O	\$52.00	MFG MGR (I)(A)(9)(b)	Soap notes do not confirm delivery of service. Reimbursement is not recommended
10-02-02	97113	\$364.00	0.00	No EOB	\$52.00	MFG MGR (I)(A)(9)(b)	Soap notes do not confirm delivery of service. Reimbursement is not recommended

10-04-02	97113	\$364.00	0.00		\$52.00	MFG MGR (I)(A)(9)(b)	Soap notes do not confirm delivery of service. Reimbursement is not recommended
	97022	\$20.00	0.00		\$20.00	MFG MGR (I)(9)(a)(ii)	Soap notes confirm delivery of service Recommended Reimbursement \$ 20.00
10-16-02	99213	\$48.00	0.00	F	\$48.00	MFG E/M GR (IV)(C)(2)	Soap notes confirm delivery of service Recommended Reimbursement \$ 48.00
	97113	\$260.00	0.00	N	\$52.00	MFG MGR (I)(A)(9)(b)	Soap notes do not confirm delivery of service. Reimbursement is not recommended
	97110	\$35.00	0.00	O	\$35.00	MFG MGR (I)(A)(9)(b)	See Rational below
	97022	\$20.00	0.00	O	\$20.00	MFG MGR (I)(9)(a)(ii)	Soap notes confirm delivery of service Recommended Reimbursement \$ 20.00
10-18-02	97113	\$312.00	0.00	O	\$52.00	MFG MGR (I)(A)(9)(b)	Soap notes do not confirm delivery of service. Reimbursement is not recommended
	97110	\$35.00	0.00	O	\$35.00	MFG MGR (I)(A)(9)(b)	See Rational Below
	97022	\$20.00	0.00	O	\$20.00		Soap notes confirm delivery of service Recommended Reimbursement \$ 20.00
TOTAL		\$2102.00					The requestor is entitled to reimbursement of \$ <b>108.00</b>

### 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 has reviewed the matters in light all of the Commission requirements for proper documentation. The MRD declines to order payment because the requestor did not identify activities nor the duration of each activity, the requestor also did not document that the injury was severe enough to warrant one-to-one therapy, nor did the

requestor document the procedure was done in a one-to-one setting. Reimbursement not recommended.

**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 8-28-01 through 12-28-01 in this dispute.

This Decision is hereby issued this 30<sup>th</sup> day of January 2004.

Georgina Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

October 21, 2003

MDR #: M5-03-3304-01  
IRO Certificate No.: IRO 5055

\_\_\_ 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 Board Certified in Pain Management.

**Clinical History:**

There is no clinical history documentation provided regarding this female claimant's injury of \_\_\_, or any subsequent treatment, other than reference to her having had a fusion at L4-5 and L5-S1 on unspecified dates, for unspecified reasons, by an unspecified doctor. The patient underwent aquatic therapy for approximately two hours each session from 09/25/02 thorough 10/25/02. She was discharged from physical therapy on 10/29/02, after having been seen for a total of twenty (20) visits commencing on 08/20/02, canceling three such visits. At discharge, the patient's pain level was said to be "slightly better", with continued complaints of leg weakness and decreased activity tolerance.

The physical therapy progress note of 10/16/02 documents that the patient had plateaued and reached maximal potential as of that date, with recommendations for a maintenance aquatic program until the fusion was complete. There are numerous references within the progress note of the patient stating that her doctor said that her fusion was incomplete.

**Disputed Services:**

Aquatic therapy (97113), therapeutic exercise (97110) and whirlpool therapy (97022) during the period of 10/23/02 through 10/25/02

**Decision:**

The reviewer agrees with the determination of the insurance carrier and is of the opinion that the treatments in question were not medically necessary in this case.

**Rationale:**

There is no prescription or requested duration documented for physical therapy from any physician to justify why any of the physical therapy was provided. Moreover, the progress note of 10/16/02 clearly documents that the claimant's clinical status had plateaued and reached maximal potential, and that she was to be discharged. In this note, in parentheses, it states that the discharge would occur "when present script expired". If the claimant had plateaued and reached maximal potential as of 10/16/02, there would be no medical necessity for her to have undergone further treatment on 10/23/02 and 10/25/02. This would be true especially with there being no direct prescription or physician order for continuation of therapy beyond the date which the therapist stated the claimant had plateaued and reached maximal potential. Such treatment would be excessive and unjustifiable in a claimant for whom maximal improvement had already been documented.

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,