

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

SOAH DOCKET NO. 453-04-4186.M5

MDR Tracking Number: M5-03-3370-01

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 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 7-11-03.

The IRO reviewed analgesic balm, therapeutic exercise, muscle testing, office visits, joint mobilization, myofascial release, group therapeutic procedures, ROM, massage, and electrical stimulation rendered from 7-19-02 through 1-14-03 that were denied as unnecessary medical.

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 12-1-03, 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:

All references are from the 1996 Medical Fee Guideline.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
7-22-02	99070	\$25.00	0.00	No EOB	DOP	General Instructions IV and Rule 133.307(g)(3)	Patient Office Visit Report supports delivery of service. Recommend reimbursement of \$25.00.
8-1-02	97250	\$43.00	\$35.00	No EOB	\$43.00	Medicine GR; CPT descriptor; and Rule	Neither party submitted an EOB; therefore this review will be per the 96 MFG only. Patient Office Visit

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
						133.307(g)(3)	Report supports delivery of service. Recommend additional reimbursement of \$8.00.
8-2-02 8-6-02 9-25-02	99213 99214 99213	\$50.00 \$75.00 \$50.00	0.00	O	\$48.00 \$71.00 \$48.00	E/M GR IV C; VI B; and Rule 133.307(g)(3)	Patient Office Visit Reports support delivery of service. Recommend reimbursement of \$167.00.
8-6-02	95851	\$120.00 (3)	0.00	G	\$36.00 ea extremity	E/M IV A 1 and Rule 133.307(g)(3)	ROM testing is not global to an office visit per rule. Patient Office Visit Report supports delivery of service. Recommend reimbursement of \$108.00.
8-6-02 8-8-02 9-16-02 9-27-02 10-4-02	97750-MT	\$258.00(6) \$258.00 \$129.00(3) \$258.00(6) \$172.00(4)	0.00	G	\$43.00 ea body area	E/M IV A 1; Medicine GR I E 3 and Rule 133.307(g)(3)	Muscle testing is not global to office visit per rule. Muscle testing reports support the following reimbursements: \$86.00 for 8-6-02 \$43.00 for 9-16-02 \$129.00 for 9-27-02 A muscle testing report for 8-8-02 was not submitted. No reimbursement recommended.
9-25-02	97265 97250 97150 97110	\$43.00 \$43.00 \$27.00 \$245.00(7)	0.00	O	\$43.00 \$43.00 \$27.00 \$35.00 ea 15 min	Medicine GR I A 10 a and Rule 133.307(g)(3)	Patient Office Visit Report supports delivery of service. Recommend reimbursement of \$43.00 + \$43.00 + \$27.00 = \$113.00. See RATIONALE below for code 97110.
9-27-02	99215	\$125.00	0.00	O	\$103.00	E/M GR IV C; VI B; and Rule 133.307(g)(3)	Subsequent Medical Narrative Report supports delivery of service. Recommend reimbursement of \$103.00
TOTAL		\$1,921.00	0.00				The requestor is entitled to reimbursement of \$757.00.

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.

The above Findings and Decision are hereby issued this 28th day of January 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 Order is applicable for dates of service 7-19-02 through 1-14-03 in this dispute.

This Order is hereby issued this 28th day of January 2004.

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

November 26, 2003

Re: MDR #: M5-03-3370-01
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 certified in Chiropractic Medicine.

Clinical History:

This male claimant injured his upper back and right shoulder in a work-related accident on ___. Injuries were sustained over the left ankle, thoracic spine, lumbar spine, right shoulder, abdomen/pelvis and cervical spine. The patient was taken to the hospital where a radiograph series of the cervical spine, left ankle, chest, thoracic spine, and lumbar spine noted no osseous pathology. He remained in the hospital under observation for one day. Additional diagnostic imaging, including a CT scan of the brain and a CT scan of the abdomen/pelvis, yielded unremarkable findings.

The patient was treated for two weeks following his injury, during which time a physician placed him in an air cast for the left ankle. On 07/19/02, a chiropractor diagnosed the patient with a Grade II strain/sprain of the lumbar/thoracic/left ankle/right shoulder and a spasm of muscle.

The patient was given a favorable diagnosis and was initiated into a course of chiropractic/physical therapy therapeutics with an emphasis on a home rehabilitation program.

A physician's exam on 07/31/02 revealed impaired functioning, inadequate coping ability and initiation of Celebrex medication for joint inflammation. MR imaging of the left ankle on 08/13/02 revealed mild tendonitis of the flexor hallucis longus tendon. MR imaging of the lumbar spine, the right shoulder, and the thoracic spine on 08/13/02 revealed unremarkable findings.

A physician's evaluation on 08/16/02 revealed continued need for rehabilitation exercises and splinting. Intra-articular injection series was recommended for additional pain management.

Disputed Services:

Analgesic balm (99070), therapeutic exercise (97110), muscle testing (97750-MT), office visits (99213), joint mobilization (97265), myofascial release (97250), group therapeutic procedure (97150), shoulder ROM/ankle ROM/thoracic ROM/lumbar ROM (95851), massage (97124), and electrical stimulation (97014).

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the treatments and services listed above were medically necessary in this case.

Rationale:

The treatment plan outlined for this patient was appropriate for the functional and psychosocial deficits that were evident as a result of his injury. It is apparent that he sustained numerous soft tissue injuries. No notable musculoskeletal pathology was identified that would warrant classification of the patient's injury outside the strain/sprain treatment algorithm. However, the patient sustained injuries to numerous functional body regions that would require additional duration/frequency/intensity of any proposed therapeutic program.

The treating provider implemented an active treatment program with a time-limited phase of passive therapeutics. A clear and precise transition to active, patient-driven therapeutics is evident from the reviewed documentation. It would not be appropriate to justify treatment of this patient using a simple strain/sprain therapeutic model.

It is evident that the treating provider is in compliance with numerous guidelines of clinical practice and current peer-reviewed literature. It is evident in the reviewed medical documentation that the patient suffered injury to numerous functional body regions that would cause a notable delay in any proposed treatment duration. Musculoskeletal injuries sustained have a cumulative effect that must be considered when reviewing any recommended course of therapeutics.

The aforementioned information has been taken from the following guidelines of clinical practice and/or peer-reviewed references:

- Chun, D.J., Chow, F. *Physical Therapy Rehabilitation of the Ankle*. Clin. Podiatr. Med. Surg., 2000, April, 19(2):319-34, VII.
- Torstensen, T.A. et al. *Efficiency and Cost of Medical Exercise Therapy Conventional Physiotherapy, and Self-Exercise in Patients with Chronic Low Back Pain*
- : *A Pragmatic, Randomized, Single-Blinded, Controlled Trial with One-Year Follow-up*. Spine, 1999, Dec, 23(23):2616-24.
- *Unremitting Low Back Pain, North American Spine Society Phase III Clinical Guidelines for Multi-Disciplinary Spine Care Specialists*. North American Spine Society; 2000, 96p.

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,