

MDR Tracking Number: M4-05-0949-01 (**Previously M4-04-7328-01**)

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 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a dispute resolution review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above. This dispute was received on 3/5/04.

This AMENDED FINDINGS AND DECISION supersedes M4-04-7328-01 rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision of 9-14-04 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of Withdrawal of 10-6-04. The Respondent appealed the Decision to an Administrative Hearing on 9-22-04. The Decision was withdrawn because it contained rule reference errors.

## **I. DISPUTE**

Whether there should be reimbursement for dates of service 4/24/03, 5/24/03 and 7/1/03 for HCPCS code E1399 and date of service 11/24/03 for HCPCS code A4556.

## **II. RATIONALE**

The services in dispute were denied as, "Reduced to Fair & Reasonable (HCPCS code E1399) and included in Global Fee (HCPCS code A4556)."

The Requestor's position statement dated 3/26/04 states, "...Payment has been made based on old fee guidelines for E0745; which had a D code in the pre 1996 fee schedule, which is not a comparable device as it provides only muscle stimulation. The Commission has not established a maximum allowable for the RS4I Sequential Stimulator. The RS4I provides 2 modalities...4 channel muscle stimulation plus interferential electrotherapy, providing equivalent therapy of 2 devices, therefore a higher fee allowance is reasonable and warranted. The RS4I provides pain relief and promotes muscle recovery to the injured worker. There are no fee guidelines for devices billed under E1399. Fee guidelines call for reimbursement at fair and reasonable rates. RS Medical has billed for this product at our published list price. Therefore, reimbursement for this unit under the fee schedule for E0745, which is a muscle stimulator only, is neither fair nor reasonable. We have provided product information and pricing documentation along with the prescription from the patient's doctor of record. We are also including copies of EOBs from carriers who are paying at our list price."

The Carrier submitted a response to this dispute on 3/25/04. Their response did not include a position statement.

There is no Maximum Allowable Reimbursement for HCPCS Code E1399. Commission Rule 133.307 (j)(1)(F), states in part, "...if the Commission has not established a maximum allowable reimbursement, documentation that discusses, demonstrates, and justifies that the amount the respondent paid is a fair and reasonable rate of reimbursement in accordance with Texas Labor Code 403.011..."

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

DOS	CPT CODE	BILLED	PAID	EOB Denial Code	MFG MAR	Maximum Allowable Reimbursement (MAR) x Conversion Factor of 125%	REFERENCE	RATIONALE:
4/24/03	E1399 RR	\$250.00	\$150.00	M- Reduced to Fair & Reasonable	No MAR	Not applicable	Rule 133.307 (j)(1) (F) Section 413/011 Rule 134.201	<p>"D" codes in the '91 Medical Fee Guideline do not contain a similar description of the same item in dispute, therefore, there is no established MAR. On this basis, this item is subject to fair and reasonable reimbursement per 413/011.</p> <p>The Requestor has supported their position that their monthly rental rate is fair and reasonable and that the Carrier's rate of reimbursement is not fair and reasonable.</p> <p>Additional reimbursement in the amount of \$100.00 is recommended.</p>
5/24/03	E1399 RR	\$250.00	\$150.00	M- Reduced to Fair & Reasonable	No MAR	Not applicable	Rule 133.307 (j)(1) (F) Section 413/011 Rule 134.201	<p>"D" codes in the '91 Medical Fee Guideline do not contain a similar description of the same item in dispute, therefore, there is no established MAR. On this basis, this item is subject to fair and reasonable reimbursement per 413/011.</p> <p>The Requestor has supported their position that their monthly rental rate is fair and reasonable and that the Carrier's rate of reimbursement is not fair and reasonable. Additional reimbursement in the amount of \$100.00 is recommended.</p>
7/1/03	E1399	\$2,495.00	\$900.00	M- Reduced to Fair & Reasonable	No MAR	Not applicable	Rule 133.307 (j)(1) (F) Section 413/011 Rule 134.201	<p>"D" codes in the '91 Medical Fee Guideline do not contain a similar description of the same item in dispute, therefore, there is no established MAR. On this basis, this item is subject to fair and reasonable</p>

DOS	CPT CODE	BILLED	PAID	EOB Denial Code	MFG MAR	Maximum Allowable Reimbursement (MAR) x Conversion Factor of 125%	REFERENCE	RATIONALE:
								reimbursement per 413/011.  The Requestor has supported their position that their monthly rental rate is fair and reasonable and that the Carrier's rate of reimbursement is not fair and reasonable.  Additional reimbursement in the amount of \$1,595.00 is recommended.
11/24/03	A4556	\$80.00 x 8 units (2 per pkg. = 4 units)	\$0.00	G-Unbundling (Included in Global)	\$12.14 X 125% = \$15.17 per unit x 4 units = \$60.68	Medical Fee Guideline;  Medicare Fee Schedule;  Rule 133.307 (j)(1) (F)	DMEPOS and Medicare DME Fee Schedules, does not contain a similar description of the same RS4I Four Channel Stimulator Unit used in conjunction with the electrodes in dispute.  This item is not considered bundled.  Reimbursement is recommended in the amount of \$60.68.	
<b>Total</b>								Total reimbursement recommended is \$1,855.68.

### III. AMENDED DECISION & ORDER

Based upon the review of the disputed healthcare services within this request, the Division has determined that the requestor is entitled to reimbursement of in the amount of \$1,855.68. Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Division hereby ORDERS the Respondent to remit \$1,855.68 plus all accrued interest due at the time of payment to the Requestor within 20-days receipt of this Order.

The above Amended Findings, Decision and Order are hereby issued this 27<sup>th</sup> day of October 2004.

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division