AWARD OF DISPUTE RESOLUTION PROFESSIONAL

I, THE UNDERSIGNED DISPUTE RESOLUTION PROFESSIONAL (DRP), designated by the American Arbitration Association under the Rules for the Arbitration of No-Fault Disputes in the State of New Jersey, adopted pursuant to the 1998 New Jersey “Automobile Insurance Cost Reduction Act” as governed by N.J.S.A. 39:6A-5, et. seq., and, I have been duly sworn and have considered such proofs and allegations as were submitted by the Parties. The Award is DETERMINED as follows:

Injured Person(s) hereinafter referred to as: JC.

1. ORAL HEARING held on 9/24/03.

2. ALL PARTIES APPEARED at the oral hearing(s).

NO ONE appeared telephonically.

3. Claims in the Demand for Arbitration were NOT AMENDED at the oral hearing (Amendments, if any, set forth below). STIPULATIONS were not made by the parties regarding the issues to be determined (Stipulations, if any, set forth below).

4. FINDINGS OF FACTS AND CONCLUSIONS OF LAW:

Claimant seeks reductions taken on bills for services rendered to JC on 4/4/00 and 4/20/00 relative to injuries sustained in a motor vehicle accident of 3/29/00.

The primary issue is the proper coding and reimbursement of an orthotic appliance for which claimant billed $1,200 under CPT 21110. Respondent recoded the service to CPT D7880 and reimbursed $572.
Respondent contends that the claimant improperly billed for an occlusal orthotic appliance under a medical surgical code, CPT 21110, in lieu of the proper dental code, CPT D7880. To the extent that the claimant's treatment notes and narrative describe the device supplied as a "mandibular orthotic" and "splint", and clearly no surgery was required, respondent argues that the recoding was proper.

Respondent argues that since the lay description of CPT 21110 in Medicode's 2000 "Coder's Desk Reference" includes reference to surgery and wiring of the jaws together, it goes beyond the services rendered herein. Moreover, it was pointed out that the Medicode's lay description of the subject medical code comports with the American Medical Association's definition which reads as follows: "Application of interdental fixation for conditions other than fracture or dislocation, includes removal." In the absence of surgery, or the wiring of the jaws together, or the use of wiring to affix the appliance to the mouth, CPT 2110 is the improper code for the type of TMJ orthotic device designed to be inserted and removed by the patient himself.

Respondent also refers to the Journal of American Dental Associates ("JADA") and its Code on Dental Procedures and Nomenclature. The JADA Code groups procedures by categories into which they are most frequently identified. Code D7880, which corresponds to an occlusal orthodontic appliances, falls under the group heading "Reduction of Dislocation and Management of Other Temporomandicular Joint Dysfunctions." Additionally, JADA's index to the most frequently utilized procedure codes indicates that D7880 corresponds to a TMJ appliance and TMJ splint. Inasmuch as claimant's treatment documentation state that JC was diagnosed as suffering from "class III occlusion" and TM joint dysfunction, it would logically follow that what was required was an occlusal orthotic as defined under D7880.

Submitted also was a peer review by Dr. Paul Markowitz, which was prepared in a separate proceeding involving the same issue, wherein the expert states that D7880 was introduced in response to the misuses of code 21110. Additionly, respondent's proofs included prior AAA Awards wherein other DRPs found in its favor on this identical issue.

Claimant submits a narrative, as well as two (2) rebuttal reports of Dr. Katz. It is his position that the splint he fabricates using CPT 21110 is different than a splint fabricated for patients under CPT D7880. The CPT code 21110 appliance is a custom fabricated hard acrylic splint that requires taking impressions of the upper and lower jaws, sending those impressions to a lab to have models made and then fabricating a custom splint from the models. Thereafter, the splint is adjusted for the particular patient in the office, which requires additional time. In contrast, CPT D7880 applies to an soft occlusal orthotic device, by report, for use in temporary emergency situations.

In response to respondent's argument that the surgical code is limited to interdental fixation, claimant points out that the last sentence of the Medicode 2000's lay description of CPT 21110 states: "Orthodontic appliances may also be used." Moreover, following
that description, there is a list of ICD-9 codes that should be used with the CPT 21110. That list includes TMJ disorders, including those noted by claimant in this case.

Moreover, according to Dr. Katz, he has been billing the surgical code for over 10 years and has been reimbursed without downcoding until just recently. Claimant has submitted EOBs from several carriers, including the respondent carrier, demonstrating that he is customarily reimbursed $1,200 under CPT 21110. As did respondent, claimant has submitted prior AAA Awards finding in his favor on this very issue.

Having reviewed all the documentation submitted and considered the argument of counsel, I find that the credible evidence demonstrates that the claimant is entitled to bill under CPT 21110 for the services rendered. The AMA's lay description of this surgical code specifically includes orthodontic appliances, in addition to interdental fixation. Moreover, the list of ICD-9 codes to be utilized with CPT 21110 includes those diagnostic codes applicable to this patient's disorder.

The second issue is the downcoding of the office visit on 4/4/00 billed at $250 under CPT 99245. Respondent downcoded the charge to a lower level of service under the dental fee schedule, D0150 and reimbursed $105. Respondent relies on the peer review of Dr. Heir, who had before him only handwritten office notes. He opined that certain information was necessary to properly review the file, including the patient's medical and dental history and radiologic findings. Claimant submitted a report dated 10/19/00, which includes a patient history and review of radiologic films. I find that respondent has not justified the downcoding of the service. Dr. Heir neither addressed claimant's use of the subject CPT, nor recommended downcoding. Claimant is awarded the balance of $94.

Lastly, claimant seeks payment of services rendered on 4/20/00 billed in the amount of $125 under CPT 99243. Claimant admits that the incorrect CPT code was utilized, and seeks to be paid $60 under CPT code 97703 for checking and adjusting of the appliance. Additionally, claimant seeks $44 for the office visit under CPT code 99212. I find that claimant is entitled to payment under CPT 97703 for checking and adjustment of the appliance, only.

Claimant submitted a certification of services in the amount of $3,580. Pursuant to AAA Rule 30, I find that $1,650 is a reasonable attorney's fee in this matter. Inasmuch as no interest calculation was submitted, interest is deemed waived.

5. MEDICAL EXPENSE BENEFITS:

<table>
<thead>
<tr>
<th>Provider</th>
<th>Amount Claimed</th>
<th>Amount Awarded</th>
<th>Payable to</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dr. Katz</td>
<td>$1,655.00</td>
<td>$1,611.00</td>
<td>provider</td>
</tr>
</tbody>
</table>
Explanations of the application of the medical fee schedule, deductibles, co-payments, or other particular calculations of Amounts Awarded, are set forth below.

Subject to any remaining copayments and deductibles.

6. INCOME CONTINUATION BENEFITS: Not In Issue

7. ESSENTIAL SERVICES BENEFITS: Not In Issue

8. DEATH BENEFITS: Not In Issue

9. FUNERAL EXPENSE BENEFITS: Not In Issue


   (A) Other COSTS as follows: (payable to counsel of record for CLAIMANT unless otherwise indicated): $325 filing fee; $25 certified mail and photocopying

   (B) ATTORNEYS FEES as follows: (payable to counsel of record for CLAIMANT unless otherwise indicated): $1,650

   (C) INTEREST is as follows: waived per the Claimant.

This Award is in FULL SATISFACTION of all Claims submitted to this arbitration.

10/30/03
Date Maria I. Daniskas, Esq.