Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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.

The Medical Review Division has reviewed the IRO decision and determined that **the requestors did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the somatosensory testing and nerve conduction studies rendered were not medically necessary.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was the only issue** to be resolved. The somatosensory testing and nerve conduction studies rendered were the only fees involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for date of service 3/20/01 is denied and the Medical Review Division declines to issue an Order in this dispute.

This Decision is hereby issued this 2nd day of July 2002.

Debra Hausenfluck
Medical Dispute Resolution Officer
Medical Review Division

DH/dh

April 16, 2002

Texas Workers' Compensation Commission
David R. Martinez, Chief
Medical Dispute Resolution
4000 South IH-35, MS 40
Austin, TX 78704-7491

Via Fax: 804-4811 and
Via U. S. Mail

Re: Medical Dispute Resolution - **REVISED**
MDR #: M5-02-2033-01
IRO Certificate No.: IRO 5055

Dear :

___ 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 practitioner of Chiropractic Medicine.

THE REVIEWER OF THIS CASE AGREES WITH THE DETERMINATION MADE BY THE INSURANCE CARRIER ON THIS CASE.

I am the Secretary and General Counsel of ___ and I certify that the reviewing physician 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.

We are forwarding herewith a copy of the referenced Medical Case Review with reviewer's name redacted.

Sincerely,

MEDICAL CASE REVIEW

This is for ___. I have reviewed the medical information forwarded to me concerning Case File #M5-02-2033-01, in the area of Chiropractic. The following documents were presented and reviewed:

A. MEDICAL INFORMATION REVIEWED:

1. Explanation of Benefits of 3/20/01 for SSEP and NCV.
2. MDR Position Statements, 2/04/02, ___.
3. ___, request for reconsideration, ___.
4. NCV and SSEP tests, 3/20/01, ___.
5. HICFA's, 3/20/01, for neurodiagnostics performed.
6. TWCC-41, 3/10/01, ___.
7. TWCC-73, 3/10/01, ___, 3/10/01 to 9/03/01.
8. TWCC-73, 10/11/01, return to work without restrictions.
9. Treatment summary sheets identifying treatment, diagnostics, and referrals from 3/10/01 to 12/11/01.
10. Questionnaire, personal history, consultation, and exam sheet, 3/10/01 ___.
11. ICD-9 codes, diagnosis sheet, 12/12/01: E927, 722.10, 722.73, 847.2, and 724.3.
12. Treatment plan, 3/10/01, ___.
13. Doctor's notes, 3/12/01 to 5/29/01, ___.
14. Lumbar MRI reports, 3/14/01, ____.
15. ___, Family Practice, 3/19/01: Initial medical report.
16. Initial narrative report, 3/21/01, ____.
17. ___, 3/10/01, ___.
18. Musculoskeletal examination, 3/23/01, ___.
19. Referral form, ____, 3/10/01.
20. Doctor's notes for E.R., ___, 4/25/01, for pneumonia and vomiting.
21. Discharge summary, 4/29/01, ___.

22. Follow-up medical exam, 4/20/01, ____, M.D.
23. Musculoskeletal examination, 4/06/01, ____, D.C.
24. Medical rehabilitation evaluation and treatment and FCE script, 4/06/01.
25. Examination notes, rehab notes.
26. Initial FCE, 4/16/01, ___.
27. Psychology group notes, 4/17/01, ___, Clinical Psychologist.
28. Initial medical exam, neurosurgeon, ___, 4/17/01.
29. Musculoskeletal exam, 5/07/01, ___, D.C.
30. Referral form, ___, neurosurgeon, 3/10/01; exam for 4/17/01.
31. Comprehensive outpatient examination, 5/15/01, doctor unknown.
32. ___, ___, 5/30/01.

B. SUMMARY OF EVENTS:

The file presented to me by ___ identifies the events as follows:

The patient injured himself by lifting a 25-inch television weighing greater than 30 pounds on ___. He entered ___ office where a case history, exam, and x-rays were provided, therapy was prescribed, and referrals were made for an MRI of the lumbar spine, NCV and SSEP, and a second opinion to ____, ____, and ____, and then for an active rehabilitation program. The course of treatment with documentation provided to me is from 3/10/01 to 5/29/01.

Initial exam by ___ revealed signs and symptoms of low back pain with radiation into the upper leg with numbness and tingling, right hip pain, with burning, weakness, and numbness of the right leg. Also noted is straight-leg raiser, right, to 60 with low back pain and straight-leg raiser seated being positive.

Motor exam and sensory exam were negative. Lumbar range of motion was reduced 25-50%. The initial impression was E927 with over-exertion and strenuous injury and lumbar radiculopathy. Noted are the date of injury, ___, initial visit to ___, the treating doctor, on 3/10/01, MRI ordered 3/13/01 and performed 3/14/01, NCV and SSEP ordered 3/16/01 and performed 3/20/01.

What is being disputed is whether the NCV and/or SSEP, neurodiagnostics of the lower extremity, is medically necessary in terms of being medically appropriate.

C. OPINION:

I AGREE WITH THE DETERMINATION MADE BY THE UTILIZATION REVIEW AGENT ON THIS CASE BASED ON ___ CLINICAL NOTES AND REPORTS NOT SUPPORTING THE NECESSITY OF ORDERING THE NCV AND SSEP TESTS OR IDENTIFICATION OF THE APPROPRIATENESS FOR USE OF ITS RESULTS.

My initial impression seems that ___ was over-aggressive with ordering lower extremity neurodiagnostics two weeks after the injury, without performing a clinical exam with results noted to support the appropriateness of this test. In ___ initial exam on 3/10/01, there was no objective sensory or motor positives. The case history and exam revealed disk joint and radicular problem with an unlikely peripheral entrapment problem.

What positives in the clinical exam warranted an NCV/SSEP test? The full effect of an injury altering or compromising nerve tissue is at approximately three weeks, at which time an exam would then take place with positive indications for conducting an NCV/SSEP.

What were the positive indications in ___ initial exam? Whether the sensory test is positive or negative, where is the doctor's notation for his treatment plan in utilizing this diagnostic tool? Was his intention to generate a lot of testing, or is there a dynamic rationale in conducting the test and utilizing its results? How would the neurosurgeon use this test in his consultation? If surgery is indicated, is the test indicated or used by the neurosurgeon?

Appropriate tests are used to establish or exclude treatment protocols or decisions. This was not noted in any of the doctor's notes. It is clear that the MRI results would affect treatment protocol, but unclear the effect of the NCV/SSEP on ____ treatment protocol changes or direction. Would the patient's care improve by providing this neurodiagnostic test? Was this test going to substantiate the appropriateness of care?

The purpose of The Spinal Treatment Guidelines (STG) is to clarify those services that are responsible and medically necessary for the injured. This STG identifies a normal course of treatment. The guideline shall not be used as the sole reason for accepting the treatment or service as reasonable and medically necessary because the treatment or service is listed in the STG.

The STG further states that the treating doctor's responsibility for referrals is to recommend appropriate referrals. The treating doctor must clearly delineate the clinical rationale for all referrals. The doctor's documentation should clearly outline whether the purpose of the referrals is to clearly corroborate the diagnosis and/or proposed course of treatment or to initiate ongoing treatment.

Diagnostic work should be performed in accordance with the recommended testing and timeframes contained in the guideline. If the need arises to deviate from the STG, then the clinical rationale must be provided which adequately substantiates the need for this deviation.

The source of screening criteria utilized was The Spinal Treatment Guidelines and professional experience of 17 years as a chiropractor.

SUMMARY REASON FOR MY OPINION -- As follows:

1. Clinical exam information and findings do not support the appropriateness of this testing.

2. The NCV and SSEP test does not change or alter the doctor's protocol for treatment. It is not clear how the doctor used this test in his treatment plan or to alter the protocols of treatment.

3. How the patient's care was improved by this test is unclear.

4. No other referral doctor recommended this specific type of test or gave support to this test or provided a rationale for its use.

D. DISCLAIMER:

The opinions rendered in this case are the opinions of this evaluator. This medical evaluation has been conducted on the basis of the documentation as provided to me with the assumption that the material is true, complete and correct. If more information becomes available at a later date, then additional service, reports or consideration may be requested. Such information may or may not change the opinions rendered in this evaluation. My opinion is based on the clinical assessment from the documentation provided.

_____

Date: 15 April 2002