

MDR Tracking Number: M5-02-3278-02

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 respondent.

This AMENDED FINDINGS AND DECISION supersedes M5-02-3278-01 rendered in this Medical Payment Dispute involving the above requestor and respondent.

The Medical Review Division's Decision of 7-1-03 was appealed and subsequently Remanded by the State Office of Administrative Hearings on 9-15-03. An Order was rendered in favor of the Requestor. The Respondent appealed the decision to an Administrative Hearing because they did not have an opportunity to provide documentation supporting its position at the MRD because the IRO never contacted the respondent to request documentation.

The IRO, Texas Medical Foundation, provided convincing documentation that the respondent had been contacted and afforded the opportunity to respond to the dispute. Specifically, on 1-7-03, TMF sent a request for records via fax to Sentry Insurance. A copy of the fax and the fax confirmation was submitted to the Medical Review Division.

The insurance carrier representative, Janice G. Menzies at The Silvera Firm, responded to TMF in a letter dated 1-10-03 stating that the Silvera Firm represented the insurance carrier. Based upon this evidence, the Medical Review Division concluded that the respondent was given the opportunity to provide documentation to support its' position. Therefore, the original decision was issued in accordance with Rule 133.308.

## I. DISPUTE

The IRO reviewed chiropractic treatment and diagnostic studies rendered from 10-4-01 through 7-19-02 that were denied based upon "U" or "V."

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
2-7-02	97540	\$32.00	\$0.00	U	\$32.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore, reimbursement of \$32.00 is recommended.
4-16-02	99213	\$48.00	\$0.00	V	\$48.00	Section	IRO concluded

6-24-02 6-27-02 7-3-02 7-8-02						408.021(a)	these services were medically necessary; therefore, reimbursement of \$48.00 X 5 dates = \$240.00 is recommended.
7-8-02 7-11-02	99078	\$75.00	\$0.00	V	DOP	Section 408.021(a)	IRO concluded these services were medically necessary; therefore, reimbursement of \$75.00 X 2 dates = \$150.00 is recommended.
7-8-02 7-11-02	99070	\$65.00 \$98.00 \$89.00	\$0.00	V	DOP	Section 408.021(a)	IRO concluded these services were medically necessary; therefore, reimbursement of \$252.00 is recommended.
4-22-02 4-22-02 7-11-02 7-11-02	95851	\$36.00	\$0.00	V	\$36.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore, reimbursement of \$144.00 is recommended.
4-22-02	95831	\$36.00	\$0.00	V	\$29.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore, reimbursement of \$29.00 is recommended.
4-22-02 6-14-02 7-11-02	99080	\$15.00 \$170.00 \$20.00	\$0.00	V	\$15.00 \$170.00 \$20.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore, reimbursement of \$205.00 is recommended.
6-12-02	99361	\$95.00	\$0.00	V	\$53.00	Section 408.021(a)	IRO concluded these services were medically necessary;

							therefore, reimbursement of \$53.00 is recommended.
6-12-02	99362	\$95.00	\$0.00	V	\$95.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore, reimbursement of \$95.00 is recommended.
9-24-02 7-8-02	97250	\$43.00	\$0.00	V	\$43.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore, reimbursement of \$86.00 is recommended.
7-3-02	97530	\$105.00	\$0.00	V	\$35.00 / 15 min	Section 408.021(a)	IRO concluded these services were medically necessary; therefore, reimbursement of \$105.00 is recommended.
7-11-02	99215	\$103.00	\$0.00	V	\$103.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore, reimbursement of \$103.00 is recommended.
TOTAL			The requestor is entitled to reimbursement of <b>\$1494.00.</b>				

The IRO concluded that all services provided from 9-20-01 through 7-19-02 with the exception of 99090 on all dates and 95900 performed on 4-22-02 and 7-11-02 were medically necessary.

Consequently, the commission has determined that **the requestor prevailed** on the majority of the medical fees (\$1494.00). Therefore, upon receipt of this Order and in accordance with §133.308(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00 for the paid IRO fee.**

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On March 21, 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
9-20-01 3-15-02	95851 (2)	\$36.00 X 2 = \$72.00	\$0.00	F	\$36.00 each X 2 = \$72.00 X 2 dates = \$144.00	CPT Code Descriptor	Documentation supports billed service, reimbursement of \$144.00 is recommended.
11-15-01 11-26-01	99362	\$95.00	\$0.00	F	\$95.00 X 2 = \$190.00	CPT Code Descriptor	Documentation supports billed service, reimbursement of \$190.00 is recommended.
TOTAL							The requestor is entitled to reimbursement of <b>\$334.00.</b>

### AMENDED DECISION & 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 \$1828.00 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 9-20-01 through 7-19-02 in this dispute.

**Also**, in accordance with §133.308(q)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00 for the paid IRO fee.**

The above Amended Findings and Decision are hereby issued this 21<sup>st</sup> day of December 2004.

Elizabeth Pickle  
Medical Dispute Resolution Officer  
Medical Review Division

## NOTICE OF INDEPENDENT REVIEW DECISION

February 13, 2003

Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
4000 South IH-35, MS 48  
Austin, TX 78704-7491

RE: Injured Worker:  
MDR Tracking #: M5-02-3278-01 (M5-02-3278-02)  
IRO Certificate #:

\_\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to \_\_\_\_ for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

\_\_\_\_ has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination, and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in chiropractic care. \_\_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between him or her and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for a determination prior to the referral to \_\_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### Clinical History

This 42 year old male sustained a work-related injury on \_\_\_\_ when the vehicle he was driving was rear-ended. He injured his neck and low back when he was jarred back and forth. The patient underwent both a lumbar MRI and a cervical MRI. The patient was diagnosed with lumbar radiculoneuropathy and myofascitis associated with muscle spasms, muscle weakness and decreased range of motion, complicated by disc bulging at L3-4, disc protrusion at L5-S1, disc herniations at L4-5 and facet imbrication. In addition, he was diagnosed with cervico-thoracic radiculopathy and myofascitis associated with muscle spasms, muscle weakness and decreased range of motion. The patient was under the care of a chiropractor.

### Requested Service(s)

Chiropractic services from 09/20/01 through 07/19/02

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Decision

It is determined that all services provided from 09/20/01 through 07/19/02 with the exception of 99090 – Analysis of services (all dates) and the 95900 – Nerve conduction studies performed on 04/22/02 and 07/11/02 were medically necessary to treat this patient's condition.

It is determined that 99090 – Analysis of services (all dates) were not medically necessary and the 95900 – Nerve conduction studied performed on 04/22/02 and 07/11/02 were not medically necessary.

Rationale/Basis for Decision

All of the dates that are documented with 99090 – Analysis of services are not documented correctly. This code is for analysis of clinical data stored in computers such as EKG, blood pressure monitoring, and hematological data. This code is not for reviewing reports from other health care providers and therefore not medically necessary. Secondly, the nerve conduction testing that was documented to be performed on 04/22/02 and 07/11/02 were not medically necessary due to the fact that there are no reports found in the medical records to show the results of the testing. All other office visits, testing, therapy, etc., that were performed and documented from 09/20/01 through 07/19/02 were medically necessary for treatment and tracking of the progress of the patient. Therefore, all services provided from 09/20/01 through 07/19/02 with the exception of 99090 – Analysis of services (all dates) and the 95900 – Nerve conduction studies performed on 04/22/02 and 07/11/02 were medically necessary. However, 99090 – Analysis of services (all dates) were not medically necessary and the 95900 – Nerve conduction studied performed on 04/22/02 and 07/11/02 were not medically necessary.

Sincerely,