

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

**SOAH DOCKET NO.: 453-03-1917.M5**

MDR Tracking Number: M5-03-0111-01

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 (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The requestor submitted a medical dispute resolution request on 8/15/02 and was received in the Medical Dispute Resolution on 8/19/02. The disputed dates of service 5/7/01 through 5/21/01 are not within the one year jurisdiction in accordance with Rule 133.308(e)(1) and will be excluded from this Finding and Decision.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the Chiropractic treatment/services (including therapeutic activities, physician team conference, electrical stimulation, diathermy, myofascial release, computer analysis, nerve conduction study, muscle testing, range of motion, special reports and x-rays), rendered were not medically necessary.

Based on review of the disputed issues within the request, the Division has determined that Chiropractic treatment/services (including therapeutic activities, physician team conference, electrical stimulation, diathermy, myofascial release, computer analysis, nerve conduction study, muscle testing, range of motion, special reports and x-rays) fees were the only fees involved in the medical dispute to be resolved. As the treatment, (Chiropractic treatment/services) was not found to be medically necessary, reimbursement for dates of service from 8/22/01 through 4/30/02 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 11th day of December 2002.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

CRL/crl

## NOTICE OF INDEPENDENT REVIEW DECISION

December 5, 2002

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

RE: MDR Tracking #: M5-03-0111-01  
IRO Certificate #: 4326

\_\_\_ 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 60 year old female sustained a work related injury on \_\_\_ when she was struck in the neck and shoulder by a sliding warehouse door. The patient has undergone MRI's of the lumbar spine, cervical spine and right shoulder and has been diagnosed with cervical brachial radicular syndrome, cervical HNP at C5-6, thoracic myositis, shoulder internal derangement syndrome, lumbar radiculopathy and lumbar disk displacement. The patient was under the care of chiropractor and from 08/22/01 through 04/30/02, and underwent therapeutic activities, physician team conference, electrical stimulation, diathermy, myofascial release, computer analysis, nerve conduction study, muscle testing, range of motion evaluations, special reports, spinal x-ray, and x-ray of the cervical spine and shoulder.

### Requested Service(s)

Therapeutic activities, physician team conference, electrical stimulation, diathermy, myofascial release, computer analysis, nerve conduction study, muscle testing, range of motion evaluations, special reports, spinal x-ray, and x-ray of the cervical spine and shoulder, all provided from 08/22/01 through 04/30/02.

### Decision

It is determined that the therapeutic activities, electrical stimulation, diathermy, myofascial release, and range of motion evaluations were not medically necessary after 10/15/01. Muscle testing, physician team conference, computer analysis, nerve conduction study, special reports, spinal x-ray, x-ray of the cervical spine and shoulder were not medically necessary.

### Rationale/Basis for Decision

A review of the patient's examinations from 07/27/01 and 10/15/01 revealed no change in the patient's condition. A review of the patient's self-reported pain scores from 08/22/01 to 04/29/02 revealed that no change in the patient's clinical pain presentation was noted in spite of the care received. The entering and exiting pain scores for the dates of service from 08/22/01 through 04/29/02 were recorded at "10" on a scale of 0 to 10 indicating the worst possible pain. The records also reflected that the patient had been under chiropractic care since 07/25/00. Range of motion analyses revealed little change in the patient's cervical and lumbar ranges of motion after 11/20/01. A review of the patient's isometric muscle testing studies revealed little to no significant changes in the patient's physical performance from 08/22/01 through 05/28/02. The spinal radiographs taken on 02/07/02 were not medically necessary and the x-rays of the cervical spine and shoulders performed on 02/07/02 were not medically necessary.

### Therapeutic activities:

The therapeutic activities performed after 10/15/01 were not medically necessary. No changes were noted in the patient's condition according to examination records and progress notes. Additionally, the progress notes did not provide documentation supportive of the services billed. A review of the progress notes revealed the words "range of motion" and revealed no documentation of procedures beyond this point. No information concerning the areas of the body treated, the amount of time involved, the patient's progress with regard to the range of motion exercises, or the effectiveness of the ranges of motion was noted in the records reviewed.

### Physician team conference:

The physician team conferences were not medically necessary. The records indicated that the doctor billed for a team conference on each occasion in which he was contacted by the carrier concerning the patient's care. The use of the team conference code for these purposes was not medically necessary. A team conference indicates that a physician conducted a team conference with an interdisciplinary team of health professionals or

representative of community agencies to coordinate activities of patient care, approximately 60 minutes. The 15-30 minute conversation with a carrier representative does not meet the criteria for this level of service.

Electrical stimulation, diathermy, and myofascial release:

Electrical stimulation, diathermy, and myofascial release were not medically necessary after 10/15/01. The patient's original date of injury was \_\_\_ and the patient began care with the chiropractor on 07/25/00. A review of the progress notes revealed that the patient's pain levels were unchanged from a level of 10/10 from 08/22/01 through 04/30/02. The continued use of passive physical therapy modalities in the treatment of unresponsive cervical, lumbar, and shoulder problems is not medically necessary.

The Philadelphia Panel found that therapeutic exercises were found to be beneficial for chronic, subacute, and post-surgery low back pain. Continuation of normal activities was the only intervention with beneficial effects for acute low back pain. For several interventions (e.g., thermotherapy, therapeutic ultrasound, message, electrical stimulation), there was lack of evidence regarding efficacy as referenced in "Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain", Phys Ther. 2001; 8:1641-1674.

The Philadelphia Panel indicated that for neck pain, therapeutic exercise was the only intervention with clinically important benefit. There was good agreement with this recommendation from practitioners (93%). For several interventions (e.g., thermotherapy, therapeutic ultrasound, message, electrical stimulation), there was lack of evidence regarding efficacy as referenced in "Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Neck Pain", Phys Ther. 2001;8:1701-1717.

According to the Philadelphia Panel's Evidence-Based Guidelines on Selected Rehabilitation Intervention for Shoulder Pain, none of the modalities used in the treatment of the patient were supported by the study. Ultrasound provided clinically important pain relief relative to a control for patients with calcific tendonitis in the short term (less than 2 months). There was good agreement with this recommendation from practitioners (75%). For several interventions (e.g., thermotherapy, therapeutic ultrasound, message, electrical stimulation), there was lack of evidence regarding efficacy as referenced in "Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Shoulder Pain", Phys Ther. 2001;8:1719-1730.

Computer analysis:

The computer analysis code 99090 was not used for analyzing computer data and was used when the doctor reviewed reports. Therefore, the code is not medically necessary.

Nerve conduction study:

The billing records indicated that the nerve conduction studies were performed on 12/27/01, 02/04/02, and 04/09/02. The medical record documentation from 12/27/01 contained no mention of a nerve conduction study being performed. The report dated

02/04/02 revealed no evidence of nerve conduction testing being performed on this patient. The records from 04/09/02 contained no references to nerve conduction velocity studies being performed. Therefore, there was no documentation to support the use of nerve conduction studies for this patient and the studies were not medically necessary.

Muscle testing:

Muscle testing studies were not medically necessary for the treatment of this patient. The muscle testing studies were performed on dates of service after 10/15/01 and services after 10/15/01 were not medically necessary due to the lack of clinical response to the treatments rendered.

Range of motion:

The range of motion evaluations performed after 10/15/01 were not medically necessary for the treatment of the patient's condition.

Special reports:

The special reports were not medically necessary. The medical records indicated that the doctor utilized the CPT code 99090 (analysis of information data stored in computers; e.g., ECG's, blood pressures, and hematological data) each time he reviewed a report from another doctor or specialist. This was not appropriate in light of the definition of the CPT code 99090.

Spinal x-ray:

The spinal radiographs taken on 02/07/02 were not medically necessary as the patient already had bone scans and a lumbar MRI study performed.

X-ray of the cervical spine and shoulder:

The x-rays of the cervical spine and shoulders performed 02/0702 were not medically necessary. The patient already had a cervical MRI study, a right shoulder MRI and a bone scan performed.

Therefore, the therapeutic activities, electrical stimulation, diathermy, myofascial release, and range of motion evaluations were not medically necessary after 10/15/01. Muscle testing, physician team conference, computer analysis, nerve conduction study, special reports, spinal x-ray, x-ray of the cervical spine and shoulder were not medically necessary.

Sincerely,