

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 the respondent. This dispute was received on 11-22-02.

The IRO reviewed temperature gradient studies, nerve conduction velocity studies, electrical stimulation, infrared, therapeutic exercise, myofascial release, training activities, special reports, analysis of information, and electrodes rendered from 4-18-02 to 8-26-02 that were denied based upon "U".

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
5-2-02 5-9-02 5-14-02 5-21-02 5-24-02 5-30-02 5-31-02 6-4-02 6-5-02 6-6-02 6-14-02 6-18-02 6-19-02 6-21-02 6-24-02 6-25-02 6-27-02 7-1-02 7-2-02 7-3-02 7-16-02 7-18-02 7-22-02 7-23-02 7-25-02 7-29-02 7-30-02 8-1-02 8-5-02 8-6-02	97110 (8 units)	\$280.00	\$0.00	U	\$35.00 / 15 min X 8 = \$280.00	Section 408.021(a)	IRO concluded these services were medically necessary. Reimbursement per MFG is recommended of 30 dates X \$280.00 = \$8,400.00.
5-7-02	97110 (5 units)	\$175.00	\$0.00	U	\$35.00 / 15 min X 8 = \$280.00	Section 408.021(a)	IRO concluded these services were medically necessary. Reimbursement per MFG is recommended of \$175.00.
5-7-02	97540	\$28.00	\$0.00	U	\$28.00 / 30 min	Section	IRO concluded these services

						408.021(a)	were medically necessary. Reimbursement per MFG is recommended of \$28.00.
5-16-02	97110 (7 units)	\$245.00	\$0.00	U	\$35.00 / 15 min X 8 = \$280.00	Section 408.021(a)	IRO concluded these services were medically necessary. Reimbursement per MFG is recommended of \$245.00.
8-26-02	97110 (4 units)	\$140.00	\$0.00	U	\$35.00 / 15 min X 8 = \$280.00	Section 408.021(a)	IRO concluded these services were medically necessary. Reimbursement per MFG is recommended of \$280.00.
8-26-02	97014	\$15.00	\$0.00	U	\$15.00	Section 408.021(a)	IRO concluded these services were medically necessary. Reimbursement per MFG is recommended of \$15.00.
5-11-02 8-26-02	97026	\$11.00	\$0.00	U	\$11.00	Section 408.021(a)	IRO concluded these services were medically necessary. Reimbursement per MFG is recommended of 2 dates X \$11.00 = \$22.00
5-11-02	97250	\$43.00	\$0.00	U	\$43.00	Section 408.021(a)	IRO concluded these services were medically necessary. Reimbursement per MFG is recommended of \$43.00.
5-11-02	97032	\$44.00	\$0.00	U	\$22.00 / 15 min	Section 408.021(a)	IRO concluded these services were medically necessary. Reimbursement per MFG is recommended of \$44.00.
TOTAL							The requestor is entitled to reimbursement of \$9112.00 .

The IRO concluded that the electrical stimulation, infrared, myofascial release, and daily training activities from 4-18-02 through 8-26-02 were medically necessary. The temperature gradient studies, nerve conduction studies, electrodes (apnea monitor) and sensory each nerve from 4-18-02 through 8-26-02 were not medically necessary.

Consequently, the commission has determined that **the requestor prevailed** on the majority of the medical fees (\$9112.00). 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.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

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

On March 10, 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:

Services that were denied without an EOB will be reviewed in accordance with *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
4-18-02	95934 (4 units)	\$53.00 ea	\$0.00	No EOB	Unrecognized code		Not able to determine what service was because code is not contained in MFG.
4-18-02	99242	\$90.00	\$0.00	No EOB	\$90.00	CPT Code Description	The requestor did not submit medical records to support billing per MFG; therefore, no reimbursement is recommended.
4-18-02 7-10-02	A4215	\$80.00	\$0.00	G	DOP	CPT Code Description	
3-27-02	99080	\$50.00	\$0.00	F	\$43.00	CPT Code Description	
7-10-02	99090	\$108.00	\$0.00	F	\$108.00	CPT Code Description	
TOTAL							The requestor is not entitled to reimbursement.

This Decision is hereby issued this 3rd day of September 2003.

Elizabeth Pickle
Medical Dispute Resolution Officer
Medical Review Division

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 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 4-18-02 through 8-26-02 in this dispute.

This Order is hereby issued this 3rd day of September 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

February 27, 2003

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

RE: MDR Tracking #: M5-03-0902-01
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 58 year old male sustained a work-related injury on ___ when he hit his head on an air conditioning unit while driving a school bus. The patient developed significant neck pain. An MRI of the cervical spine was performed on 05/20/02. The patient was under the care of a chiropractor and from 04/18/02 through 08/26/02 received temperature gradient studies; nerve conduction/velocity studies; electrical stimulation; infrared; therapeutic exercises, myofascial release/soft; daily training activities; special reports; analysis of information; and electrodes (apnea monitor) and sensory each nerve.

Requested Service(s)

Temperature gradient studies; nerve conduction/velocity studies; electrical stimulation; infrared; therapeutic exercises, myofascial release/soft; daily training activities; special reports; analysis of information; and electrodes (apnea monitor) and sensory each nerve provided from 04/18/02 through 08/26/02.

Decision

It is determined that the electrical stimulation, infrared, myofascial release, and daily training activities from 04/18/02 through 08/26/02 were medically necessary to treat this patient's condition. However, it is determined that the temperature gradient studies, nerve conduction studies electrodes (apnea monitor) and sensory each nerve that were supplied from 04/18/02 through 08/26/02 were not medically necessary.

Rationale/Basis for Decision

The patient went to the chiropractor on 04/18/02 for evaluation and treatment of his work-related injury. His initial evaluation included an orthopedic and neurological assessment and nerve conduction velocity (NCV) studies of the upper extremities. The initial examination revealed normal reflexes and reduced ranges of motion in the cervical region. Paresthesia was not in the C7-8 dermatomes and the NCV evaluation revealed evidence of demyelination of the right median nerve and left ulnar nerve, and left median sensory neuropathy. A temperature gradient study was also performed.

The patient was treated on the following dates by the chiropractor with manipulation passive modalities, and active exercises:

April 2002:	18
May 2002:	1,2,3,7,14,16, 21,30,31
June 2002:	4,5,6,14,18,19,21,24,25,27
July 2002	1,2,3,10,16,18,22,23,25,29,30
Aug 2002:	1,5,6,26

Passive modalities were only occasionally used in the initial phases of care and were discontinued after the first few weeks, which was appropriate. Passive therapies were re-introduced on 08/26/02 because of an

exacerbation of the patient's neck pain. The bulk of the care the patient received from the chiropractor consisted of therapeutic exercises.

A cervical spine MRI was ordered on 05/20/02 that revealed a broad based 2-3mm right paracentral/foraminal protrusion with posterior osteophyte ridging that compressed the right anterolateral surface of the cord at C5-6. There was also loss of signal intensity and evidence of bilateral uncinata hypertrophy. The other levels of the cervical spine from C3-4 through C6-7 demonstrated signs consistent with cervical spondylosis.

The patient was re-examined on 06/04/02 and his condition was essentially unchanged with respect to the examination findings. He was diagnosed with cervicalgia and cervical disc displacement.

The 06/18/02 examination revealed the patient's ranges of motion in the cervical region were improving and reflexes were normal bilaterally. Cervical orthopedic tests were still positive.

The patient was referred for a pain management evaluation on 06/28/02. He complained of right sided neck pain and bilateral radiating arm pain with intermittent tingling of the hands. Pain increased with head turning and ranges of motion of the cervical region were reduced secondary to pain. The neurological examination was unremarkable and the patient was diagnosed with cervical radiculitis and a trial of epidural steroid injections was recommended.

The 07/03/02 re-evaluation revealed reduced ranges of motion in all planes and pain described as sharp and rated at 4/10. The orthopedic examination was unchanged from previous evaluations.

The patient was re-evaluated again on 07/10/02 and the examination revealed reduced ranges of motion and sharp intermittent pain. Cervical orthopedic tests were still locally positive and the patient was scheduled for epidural steroid injections. The nerve conduction velocity studies of the upper extremities were repeated on 07/10/02 and evidence of demyelination of the right median nerve and left ulnar nerve was noted.

The patient was re-examined on 07/18/02 and the examination was essentially unchanged with respect to his orthopedic examination findings although the records indicated that the patient's pain intensity had decreased. The report also indicated that the patient was scheduled for cervical epidural steroid injection (ESI) on 07/19/02.

The 08/08/02 report from the doctor indicated that the patient's pain had improved marginally since the first injection and he was scheduled for a second ESI on 08/09/02. The records indicated that the patient was improving in his physical performance evaluations although the orthopedic findings were unchanged from previous evaluations.

The patient was sent for an impairment rating evaluation on 09/23/02. The report indicated that the patient had been treated by the chiropractor for 6-8 weeks and was then referred to a pain management clinic for epidural steroid injections. Two ESI's were performed that did not help the patient's symptoms. The patient still had problems with range of motion of the cervical region and muscle spasms that prevented his return to work as a bus driver. The patient had also started a work hardening program on 09/18/02. The examination revealed range of motion restrictions and tenderness in the cervical region. Grip strength was equal and no sensory or reflex abnormalities were noted. The evaluating physician recommended another two weeks of work hardening to increase the patient's range of motion.

The daily training activities (therapeutic exercises) utilized by the chiropractor from 04/18/02 through 08/26/02 were medically necessary since improvements were noted in the patient self-reported pain level over the course of care. No other objective information was included in the medical record documentation. The temperature gradient studies were not medically necessary in this case. According to the American Academy of Neurology's Therapeutics and Technology Assessment Subcommittee, infrared thermography is of limited value in its characterization of neurologic dysfunction or deficit. If it is to be used, it should only be in conjunction with established neurodiagnostic evaluation procedures. Infrared thermography may provide information about altered cutaneous temperatures useful in characterizing reflex sympathetic dystrophy, focal autonomic neuropathies, focal nerve injuries, and for evaluation of faulty use insensitive acral parts.

Based on the present medical literature, infrared thermography has not been shown to provide sufficient reliable characterizing information about neurologic dysfunction or deficit to accept it as a proven evaluation procedure for the clinical diagnosis or characterization of (1) neck or back pain and/or cervical, thoracic, or lumbosacral radiculopathy, (2) musculoskeletal pain, (3) entrapment neuropathy; or (4) headache, transient cerebral ischemia, or stroke. Reference: Report of the American Academy of Neurology Therapeutics and Technology Assessment Subcommittee, "Assessment: Thermography in neurologic practice", Neurology, 40:523-525,1990.

The Mercy Conference Haldeman, S. et al., Guidelines for Chiropractic Quality Assurance and Practice Parameters – Proceeding of the Mercy Center Consensus Conference, Aspen, Gaithersburg, MD, 1993, indicates that thermocouple devices used for the manual determination of local paraspinal temperature variations have not been shown to have good discriminability, and both their validity and reliability of measurement is highly doubtful. The recommendation of the Mercy Conference is that there is no evidence to support a claim of effectiveness and the use of these devices is rated doubtful.

The nerve conduction velocity studies in this case were not medically necessary. The initial examination revealed no "hard" neurological findings supportive of the testing. In the absence of "hard" neurological signs, testing is typically not indicated for at least the first month of treatment and is considered as an option if the treatment regimen instituted fails to alleviate the patient's symptoms. The patient in this case did not have a suitable course of treatment prior to the first test. The second test was not medically necessary, as no examinations prior to 07/10/02 test date revealed the presence of abnormal neurological signs that would support the medical necessity of the study.

Haldeman et al indicate that the case history coupled with a discerning physical examination typically supplies most of the information necessary to make a diagnosis and determine a prognosis. Instrumentation serves to confirm the differential diagnosis, assess the severity of a condition, or to monitor the progress from a pre-established baseline. Additionally, the information gained from nerve conduction typed studies may be used to evaluate the nerve trunk integrity as well as significant compression, or temporal dispersion from entrapment or metabolic neuropath. Reference: Haldeman, S. et al, Guidelines for Chiropractic Quality assurance and practice parameters – Proceedings of the Mercy Center Consensus Conference, Aspen, Gaithersburg, MD, 1993.

The records in this case identified no abnormal examination findings that would have supported the medical necessity of the battery of upper extremity nerve conduction velocity studies that were performed.

Therefore, the electrical stimulation, infrared, myofascial release, and daily training activities from 04/18/02 through 08/26/02 were medically necessary to treat this patient's condition. However, the temperature gradient studies, nerve conduction studies electrodes (apnea monitor) and sensory each nerve that were supplied from 04/18/02 through 08/26/02 were not medically necessary.

Sincerely,