

MDR Tracking Number: M5-03-2987-01

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. The dispute was received on 7-17-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20 days to the date the order was deemed received as outlined on page one of this order.

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

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 office visits, therapeutic exercises, group therapeutic procedures, electrical stimulation, and hot/cold packs were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The above Findings and Decision are hereby issued this 1st day of October 2003.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay 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 Order is applicable to dates of service 9-30-02 through 11-13-02 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Order is hereby issued this 1st day of October 2003.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

November 14, 2003

REVISED DECISION
Revision as to Reviewer's Specialty

Re: Medical Dispute Resolution
MDR #: M5-03-2987-01
IRO Certificate No.: IRO 5055

___ 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 physician who is board-certified in Physical Medicine and Rehabilitation.

Clinical History:

This 63-year-old lady was injured in a work-related accident on ____. Extensive studies, including an EMG and nerve conduction study, revealed the patient had bilateral median nerve entrapment, C5-6 nerve root irritation, and L4-5 radiculopathy.

The patient is noted to have cognitive complaints, i.e., severe cognitive problems noted by both the therapists and by the different physicians. A neuropsychological evaluation was requested on 08/12/02, but the records do not report that it was ever done. The patient also had a thoracolumbar support for the back pain. At various time, the cognitive deficits are noted, along with depression.

The patient has many other issues that are not related to this injury. Depression and traumatic brain injury are diagnosed, as is carpal tunnel syndrome, cervical radiculopathy, lumbar radiculopathy, and myofascial pain. There is a note that the patient has kyphoscoliosis and the pain was exacerbated by the accident. However, the records are unclear as to how to relate the kyphoscoliosis to the major problem, which seems to be a traumatic brain injury.

Disputed Services:

Hot or cold packs, unusual physician travel, therapeutic exercises, group therapeutic procedures, and electrical stimulation during the period of 09/30/02 through 11/13/02, and office visits on 10/28/02 and 11/13/02.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the services and treatments in question were medically necessary in this case.

Rationale:

Normally, the type of therapy ordered on 09/30/02 would be considered unusual for a case one year after an accident. However, as noted in the physical therapy and the physician notes, one of the determinants of the patient's being unable to resolve her injuries is her traumatic brain injury. She is incapable of the normal activities of daily living. An individual who cannot participate in the useful activities of daily living certainly has a marked impairment, called a Class 4 impairment on the Global Assessment of Function scale. The argument could be made that the patient has a Class 5 impairment as well.

Even though this is a considerable amount of time after the injury, the therapy was totally appropriate in this patient. With demonstrable cognitive loss and with a marked decrease in activities of daily living, it is perfectly proper to: (1) treat the pain, and (2) treat the individual in a social setting to get the individual back into a social milieu that would allow the return to work. The therapy was appropriate and medically necessary to treat injuries to the neck and back, and a carpal tunnel.

There is no quick resolution for this kind of injury. The therapy was totally appropriate, and quality and quantity of the treatment, and the notes indicate that the approach was proper for this patient. The approach was re-socialization and reinstatement of activities of daily living.

The office visits on 10/28/02 and 11/13/02 were necessary to assess the patient's progress and plan of treatment.

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

Sincerely,