

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER: 453-04-1810.M5

MDR Tracking Number: M5-04-0139-01

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 (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 September 10, 2003.

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 with manipulations, therapeutic exercises, therapeutic activities, ultrasound, neurostimulator, electrical stimulation, vasopneumatic device, neuromuscular re-education, and myofascial release were found to be medically necessary. The respondent raised no other reasons for denying reimbursement of office visits with manipulations, therapeutic exercises, therapeutic activities, ultrasound, neurostimulator, electrical stimulation, vasopneumatic device, neuromuscular re-education, and myofascial release charges.

This Findings and Decision is hereby issued this 24<sup>th</sup> day of November 2003.

Georgina Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division

GR/gr

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 09/10/02 through 01/21/03 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 24<sup>th</sup> day of November 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division  
RL/gr

**NOTICE OF INDEPENDENT REVIEW DETERMINATION**

MDR Tracking Number: M5-04-0139-01

November 11, 2003

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by \_\_\_\_, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

\_\_\_\_ hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to \_\_\_\_.

Notice of Independent Review Determination

CLINICAL HISTORY

\_\_\_\_ was injured at work on \_\_\_\_ when she fell injuring her right shoulder. On 3/12/02 surgery was performed to repair the injury and rehab followed under \_\_\_\_ supervision.

### REQUESTED SERVICE(S)

Office visits with manipulations, therapeutic exercises, therapeutic activities, ultrasound, neurostimulator, electrical stimulation, vasopneumatic device, neuromuscular re-education and myofascial release from 9/10/02 through 1/21/03.

### DECISION

Treatment program was warranted.

### RATIONALE/BASIS FOR DECISION

As a health care provider, the most outstanding aspect of this case is the time span in which the injury was sustained and diagnostic MRI was performed. Records indicate the delay in diagnostic procedure was due to denials by the responsible insurance company. The injury occurred \_\_\_ and the MRI was performed 1/14/02 with surgical repair performed by \_\_\_ on 3/12/02. Acromioplasty and repair of a 3cm rotator cuff tear were performed. Also excised was what was described as a very shaggy bursa. Several reports in this case have been reviewed from different doctors citing guidelines for care and using these guidelines for denial of care provided. Many of these reports appear as having a standardized response to the care given and justification for previous denial. In all of \_\_\_ follow-up reports after surgery he continually states the need for rehab of the right shoulder \_\_\_ shoulder may have responded in rehab according to standard recovery protocol if the surgery were performed much earlier. This, however, was definitely not the case and as such \_\_\_ treatment plan used the recommendations from the Mercy Guidelines as a protocol for recovery. Their office rehabbed \_\_\_ based on her being in the group which is considered Complicated and Chronic and her treatment was modified as such. Review of the rehab and patient outcome seems to have been successful with the patient returning to the work place.