

THIS DECISION HAS BEEN APPEALED. THE
 FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
 SOAH DOCKET NO. 453-04-5184.M5

MDR Tracking Number: M5-04-0218-01

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. This dispute was received on 09-18-03.

The IRO reviewed office visits with manipulations, office visits, therapeutic procedures, therapeutic activities, joint mobilization, myofascial release, and manual traction rendered from 05-14-03 through 07-30-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity for office visits with manipulations, joint mobilization, therapeutic activities, myofascial release, and manual traction.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity for office visits and therapeutic procedures. Consequently, the commission has determined that **the requestor prevailed** on the majority of the medical fees (\$1652.00). 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 \$650.00** 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 not the only issue** to be resolved.

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

On 12-05-03, 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
07/08/03	97750MT	\$43.00	0.00	G	\$43.00	MFG MGR (I)(E)(3)	Muscle testing is not global to any other procedure billed for date of service; However muscle-testing reports

							were not submitted to support services rendered as billed. Reimbursement is not recommended.	
07/16/03	95851	\$36.00	0.00	G	\$36.00	MFG MGR (I)(E)(4)	Range of Motion testing is not considered global. Per the 1996 Medical Fee Guideline, Medicine Ground Rule requestor submitted SOAP notes to support services rendered as billed. Reimbursement recommended \$36.00	
TOTAL		\$79.00						The requestor is entitled to reimbursement of \$36.00

This Decision is hereby issued this 4th day of March 2004.

Georgina Rodriguez
 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 05-14-03 through 07-30-03 in this dispute.

This Order is hereby issued this 4th day of March_2004.

Roy Lewis, Supervisor
 Medical Dispute Resolution
 Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

**Amended Letter
 Note: Decision**

November 24, 2003

Rosalinda Lopez
 Program Administrator
 Medical Review Division
 Texas Workers Compensation Commission
 7551 Metro Center Drive, Suite 100, MS 48
 Austin, TX 78744-1609

RE: MDR Tracking #: M5-04-0218-01
 IRO Certificate #: IRO4326

___ 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. ___'s 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 patient sustained injuries to the head, cervical, and upper thoracic areas on ___ when a piece of metal fell, hitting him on top of the head. He saw a chiropractor for treatment and therapy. Electromyography and nerve conduction studies were negative.

Requested Service(s)

Office visits with manipulation, office visits, therapeutic procedures, therapeutic activities, joint mobilization, myofascial release, and manual traction from 05/14/03 through 07/30/03

Decision

It is determined that the office visits and therapeutic procedures from 05/14/03 through 07/30/03 were medically necessary to treat this patient's condition. However, the office visits with manipulation, joint mobilization, therapeutic activities, myofascial release, and manual traction were not medically necessary.

Rationale/Basis for Decision

The reviewed medical records indicate that chiropractic/physical therapeutics were initiated on/about 02/28/03. The provider completed a sufficient trial of therapeutics from 02/28/03 through 05/14/03 to determine the effectiveness of passive therapeutics that include myofascial release, manual traction, and manipulation. Utilization of therapeutic activities and therapeutic exercises show clinical redundancy. Early in the treatment of this patient, therapeutic activities with the provider are appropriate to train the patient on the details of a rehabilitation program. As the patient's therapy progresses, greater reliance should be placed on the patient. Therapeutic applications should support an active, patient-driven tone. The provider's need to utilize both therapeutic exercises and therapeutic activities is an unusual practice and requires a higher level of explanation than what is afforded in the reviewed medical record.

It is evident that this patient did sustain an injury on ___ that cannot be sufficiently classified in most therapeutic algorithms, thus increased care duration is appropriate. However, an active, patient-driven practice must be adopted in all rehabilitative care models to provide the injured worker with the best template to make future lifestyle modification.

Therapeutic record does reflect the need for invasive therapeutics to control pain (cervical epidural steroid injections) and the need to transition the patient to upper level therapeutics. Reviewed documentation does not support continued reliance on passive therapeutics that include manipulation, myofascial release, joint mobilization, and manual traction. In addition, the reviewed documents support only the need for supervised activities and not one-on-one services. Therefore, it is determined that the office visits and therapeutic procedures from 05/14/03 through 07/30/03 were medically necessary. However, the office visits with manipulation, joint mobilization, therapeutic activities, myofascial release, and manual traction from 05/14/03 through 07/30/03 were not medically necessary.

The aforementioned information has been taken from the following guidelines of clinical practice and clinical references:

- Abdulnabab SS, et al. *Neck retractions, cervical root decompression, and radicular pain.* J Orthop Sports Phys Ther. 2000 Jan;30(1):4-9.
- Levoska S, Keinanen-Kiukaanniemi S. *Active or passive physiotherapy for occupational cervicobrachial disorders? A comparison of two treatment methods with a 1-year follow-up.* Arch Phys Med Rehabil. 1993 Apr;74(4):425-30.
- Sataloff RT, et al. *Single Photon Emission Computed Tomography (SPECT) in neurological assessment: A preliminary report.* Am J Otol. 1996 Nov;17(6):909-16.

Sincerely,