

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

SOAH DOCKET NO. 453-04-2827.M5

MDR Tracking Number: M5-04-0590-01

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 09-29-03.

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 visit, joint mobilization, unlisted procedure (spray and stretch), electrical stimulation, aquatic therapy and office visit/evaluation and management of established patient were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 06-10-03 through 06-23-03 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 6th day of January 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division
DLH/dlh

January 5, 2004

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-04-0590-01
IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

___ is a 38-year-old ___ gentleman who was injured at his job on ___ while working as a mechanic for ___. The documentation states that ___ was lifting a tool box that weighed approximately 60 pounds when he injured his low back. He initially sought care with a company doctor and then sought care at ___. ___ was examined by ___ who diagnosed him with a lumbar sprain, possible discopathy, thoracic or lumbosacral neuritis and myalgia. ___ referred ___ for NCV studies on 10/27/99. These studies revealed mononeuropathy multiplex of the right and left peroneal and left tibial nerves, proximal motor neuropathy of the right peroneal nerve and a proximal sensory neuropathy of the right tibial nerve. On 11/18/99 the patient was referred for an MRI of the lumbar region that revealed a large 6 mm disc protrusion that did efface the anterior aspect of the thecal sac as well as the anterior medial aspect of the right S1 nerve root (reader ___). The patient was referred for another MRI on 7/2/02 that displayed basically the same findings but the reviewer stated the discopathy caused the effacement of the epidural fat pad and caused compression of the S1 nerve roots bilaterally (reader ___). The patient was then referred on 7/9/02 for another SSEP test that stated a conduction defect of the large fiber sensory system on the right. Also note that there was an IME performed by ___ that was reviewed.

DISPUTED SERVICES

Under dispute is the medical necessity of office visits, joint mobilization, unlisted procedure (spray and stretch) electric stimulation, aquatic therapy and office visit/evaluation and management of established patient.

DECISION

The reviewer disagrees with the prior adverse determination.

BASIS FOR THE DECISION

Based on the records provided, this patient did gain subjective and objective relief from the treatment provided. This enabled the patient to continue working. This determination falls within the Mercy Fee Guidelines (for a trial of treatment), RAND studies, Texas Guidelines for Chiropractic Quality Assurance and Practice Parameters, and well within the mainstream of the medical community.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy

As an officer of ___, I certify that there is no known conflict between the reviewer, ___ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

___ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,