

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

**SOAH DOCKET NO. 453-04-4198.M5**

MDR Tracking Number: M5-04-0871-01

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 11-21-03.

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, prolonged evaluation, needle electromyography-extremities, needle electromyography-thoracic muscles, nerve conduction-no F wave, sensory-each nerve, H or F reflex study and ROM measurements 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 date of service 01-30-03 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 30<sup>th</sup> day of January 2004.

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

January 28, 2004

Rosalinda Lopez  
Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

**AMENDED DECISION**  
**Revising TWCC#, Injured Employee's Name, and  
Deleting orbicularis oculi reflex from Disputed Services**

Re: MDR #: M5-04-0871-01  
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.

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.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine.

**Clinical History:**

This male claimant sustained a lower back injury in an industrial accident on \_\_\_\_. A lumbar myelogram on 01/15/03 demonstrated subtle ventral indentation upon opacified thecal sac at T-12 and L-1, suggesting a shallow posterior disc bulge or protrusion. There was also widening of the epidural space at L4-L5 and L5-S1. A CAT scan performed on the same date showed a 2-3 mm L3-L4 disc bulge, a 3mm L4-L5 disc protrusion with moderate hypertrophic facet arthropathy, and enfolding of the ligamentum flava. A 2-3 mm disc bulge was also present at L5-S1.

**Disputed Services:**

Office visit-new patient, prolonged evaluation, needle electromyography-extremities, needle electromyography-thoracic muscles, nerve conduction-no F wave, sensory-each nerve, H or F reflex study and ROM measurements on 01/30/03.

**Decision:**

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

**Rationale:**

Based upon the information provided for review, an EMG/NCV of the lower extremities is medically justified in order to clearly establish the presence of a myelopathy or radiculopathy. These considerations are important in order to properly evaluate this patient.

Sincerely,