

MDR Tracking Number: M5-04-1142-01

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 December 22, 2003.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the majority of 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 \$650** 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 therapeutic procedures, therapeutic activities, and office visits from 3/27/03 through 6/6/03 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

The Medical Review Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the following issues of medical necessity: the IRO agrees with the previous determination that the electrical stimulation and ultrasound therapies from 3/27/03-6/6/03 were not medically necessary.

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 through 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 Decision and Order is hereby issued this 1st day of March 2004.

Regina Cleave
Medical Dispute Resolution Officer
Medical Review Division
RC/rc

February 23, 2004

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

Re: MDR #: M5-04-1142-01
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.

REVIEWER'S REPORT

Clinical History:

The records indicate the patient was injured on the job on ___, resulting in severe back pain and stiffness. Initial evaluation and treatment was begun. Apparently, he was not progressing satisfactorily, so he saw another doctor. He was placed on modified work with a change in medication, as well as being started in physical therapy. Lumbar MRI was performed. He saw another doctor on 11/8/02 and continued to make slow progress, and he was referred to another physical therapist.

The patient was also seen on March 4, 2003 by an orthopaedic specialist, who indicated he felt the patient would not require operative intervention and recommended continuation of conservative measures with regard to minimization of his pain and to improve his functional abilities.

Disputed Services:

Therapeutic procedures, therapeutic activities, office visits, electrical stimulation, and ultrasound, during the period of 03/27/03 thru 06/06/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier and is of the opinion that the therapeutic procedures, therapeutic activities, and office visits during the period of 03/27/03 thru 06/06/03 were medically necessary. However, passive therapy in the form of electrical stimulation and ultrasound during this period was not medically necessary in this case.

Rationale:

National Treatment Guidelines allow for this type of treatment for this type of injury. However, there are no National Treatment Guidelines that allow for the use of passive therapies 5 months after the patient's injury. The records indicate the patient was progressed into an active therapeutic therapy program. There is sufficient documentation on each date of service to warrant and clinically justify the medical necessity of all active therapy that was denied. In conclusion, therapeutic procedures, therapeutic activities, and office visits during the period of 03/27/03 through 06/06/03 were in fact reasonable, usual, customary, and medically necessary for the treatment of this patient's on the job injury. However, passive therapy in the form of electrical stimulation and ultrasound during the period of 03/27/03 through 06/06/03 was not medically necessary to treat this patient's condition.

Sincerely,