

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

**SOAH DOCKET NO: 453-04-5123.M5**

MDR Tracking Number: M5-04-1181-01

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 January 20, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

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 consultation for 12-31-02 was found to be medically necessary. The myofascial release, electric stimulation, hot/cold packs, therapeutic exercise and ultrasound from 12-31-02 through 02-17-03 were not 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 12-31-02 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 18<sup>th</sup> day of March 2004.

Patricia Rodriguez  
Medical Dispute Resolution Officer  
Medical Review Division  
PR/pr

## NOTICE OF INDEPENDENT REVIEW DETERMINATION

March 12, 2004

MDR Tracking Number: M5-04-1181-01  
IRO Certificate# 5259

An independent review of the above-referenced case has been completed by a medical physician board certified in physical medicine and rehabilitation.

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 \_\_\_.

### CLINICAL HISTORY

This is a lady who reportedly stepped backwards, fell and sustained a myofascial injury to the cervical spine. This was treated conservatively with medication and several physical therapy protocols. There were trigger point injections and identification of degenerative disease in the cervical spine as noted by osteophyte formation. Pain management techniques were introduced as well. Maximum medical improvement was declared with a 5% whole person impairment rating. There was a great deal of care delivered at the time of injury. After maximum medical improvement there was an evaluation in May 2001, repeat physical therapy in January 2003, and significant gaps in care thereafter. Three years after the compensable event, a third trial of physical therapy passive modalities was prescribed.

### REQUESTED SERVICE (S)

Office consult, myofascial release, electric stimulation, h/c packs, therapeutic exercise and ultrasound therapy.

### DECISION

Approve office consult; deny all other services. There is no clinical indication to repeat the passive modalities as reasonable and necessary care for the compensable injury.

### RATIONALE/BASIS FOR DECISION

The application of passive modalities, after an extended period has been studied by physical therapists themselves. As part of this study, a number of “stakeholder” organizations were asked to participate. One of the conclusions was that after the initial phase of the injury, there was no evidence of any efficacy with these types of approaches. [Philadelphia Panel Evidence-Based Guidelines on Selected Rehabilitation Interventions for Low Back Pain. *Phys Ther.* 2001; 81:1641-1674.] Noting that after the first two sessions of physical therapy modalities, there was an indication of a home program, noting the changes on physical examination, all that would be required this long after the date of injury is a comprehensive home-based, self-directed exercise program emphasizing overall fitness and conditioning. Passive modalities are not reasonable and necessary care for the injury at this time.