

**THIS DECISION HAS BEEN APPEALED. THE FOLLOWING
IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-04-7288.M5**

MDR Tracking Number: M5-04-1212-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, 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 12-23-03.

The IRO reviewed therapeutic activities, therapeutic exercises, myofascial release, neuromuscular re-education, vasopneumatic devices, and manual therapy from 5-28-03 through 9-2-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

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

On 3-23-04, 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 requestor failed to submit relevant information to support components of the fee dispute per Rule 133.307(g)(3) (A-F). Therefore, no review can be conducted and no reimbursement recommended.

This Decision is hereby issued this 20th day of May 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

REVISED 3/22/04

March 12, 2004

IRO Certificate# 5259
MDR Tracking Number: M5-04-1212-01

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 45 year old lady with a somewhat confusing history of twisting her ankle. The initial report noted by the carrier limited the compensable injury to the ankle and knee. However, this was expanded to include the lumbar and cervical spine. It is not clear what the actual extent of injury was (or is). This was treated conservatively with physical therapy and oral medications. The initial imaging studies noted a wholly normal cervical spine and a very minor disc finding on lumbar MRI. Noting that this is a 43 year old, 5'9" 243 pound lady, this would be considered a normal finding. Electrodiagnostic assessment reported out a "normal EMG". Various therapeutic modalities were employed. Monthly follow-up visits and there was non significant improvement. Orthopedic consultation noted only sprain/strain (i.e. soft tissue) type injuries. The complaints of pain far exceeded the objective documentation and the physical examination reports. Within a year, maximum medical improvement was identified and a 12% whole person impairment rating was assigned.

In May 2003 (___ after the date of injury) a new protocol of therapeutic measures was instituted. This included myofascial release, neuromuscular reeducation and vasopneumatic devices. While undergoing these procedures, there was no reported improvement, in fact as per the progress notes from March, June and July, the pain was equal to or had increased

REQUESTED SERVICE (S)

Therapeutic activities
Myofascial release
Neuromuscular reeducation
Vasopneumatic devices
Manuel Ther Tech
Ther Exer

DECISION

Denied.

RATIONALE/BASIS FOR DECISION

This is a lady who slipped and fell sustaining an ankle injury. The lumbar spine cervical spine were then addressed. The objective data did not identify any pathology related to the cervical or lumbar spine. The physical examination noted vague complaints and no real pathology. There was a significant gap in care and then the same complaints were noted.

The response to the care initially should have been an indicator that this was ineffective as the prior trials. Based on the records reviewed, none of the active or passive modalities ever resolved the complaints of pain.

For this to be reasonable and necessary care would require a reasonable expectation of success. Also, as per the rule, the treatments offered would have to be the prevailing standard of care. The DRX Table (the vasopneumatic device) has no proven efficacy, only several small samples of anecdotal experience and no FDA approval. Further there are prior decisions that have ruled this device not to be warranted care. The national standards of care established are not met and this is not reasonable and necessary care for the injury.

Neuromuscular reeducation is an often misused word that often lacks a consistent definition. In that there has been a several year gap between the date of maximum medical improvement and the re-institution of these modalities, if anything more reasonable and realistic parameters should have been attempted. That is the prevailing standard of care for the long-term myofascial injury. There is no indication of a lesser level of care even being suggested let alone attempted in this case. As noted by the Philadelphia Study, such devices have not proven efficacy and that alone would exclude this from the proper venues of care.

Myofascial release has a clinical indication, however, those standards are not met based on the clinical data (progress notes and physical therapy noted) reviewed. The language of the notes appears to be fairly boilerplate and one is unclear about the efficacy of any of the treatments provided. If the treatment is ineffective, then clearly something else should be attempted. The progress notes are rife with noting the same level of pain. This lack of improvement after the time frames noted would be a classic indicator to alter the treatment plan and seek alternate avenues.