

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

SOAH DOCKET NO. 453-04-5923.M5

MDR Tracking Number: M5-04-1230-01

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 1-05-04.

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 TENS device on 5/27/03 **was found** to be medically necessary. The remaining office visits; myofascial release, ultrasound therapy, physical medicine treatment, therapeutic procedures, special reports, and supplies from 1/20/03 through 5/27/03 **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 dates of service 1/20/03 through 5/27/03 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 Decision and Order is hereby issued this 28th day of April 2004.

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

April 2, 2004

Re: IRO Case # M5-04-1230 amended 4/14/04

Texas Worker's Compensation Commission:

___ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to ___ for an independent review. ___ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, ___ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Neurological Surgery and who has met the requirements for TWCC Approved Doctor List or has been approved as an exception to the Approved Doctor List. He or she has signed a certification statement attesting that no known conflicts of interest exist between him or her and any of the treating physicians or providers, or any of the physicians or providers who reviewed the case for a determination prior to referral to ___ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the ___ reviewer who reviewed this case, based on the medical records provided, is as follows:

History

The patient is a 40-year-old male who was injured in ___ when he was packing and lifting boxes. He developed pain in the thoracic region that soon extended into the low back and neck. When he was seen soon after the injury, no neurologic deficit was present and he was released to return to work. Since then the patient has been treated with physical therapy and work hardening, various injections including cervical epidural steroid injections, and medications. A 6/24/01 MRI of the cervical spine showed no significant abnormalities suggestive of surgical pathology. Electrodiagnostic testing showed only questionable evidence of nerve root compression in the cervical spine.

Requested Service(s)

Ovs, myofascial release, ultrasound therapy, phys med tx, therap proc, spl report, supplies 99070 1/20/03 – 5/27/03

Decision

I agree with the carrier's decision to deny the requested services, except for the TENS device

I disagree with the decision to deny the TENS device.

Rationale

The TENS unit was used for the first time in January 2003 and was reported to be very helpful. It appears from the records provided for this review that the other therapy was mainly a repeat of previous attempts to deal with the patient's trouble without any changes on examination or other studies that would indicate that the treatment might be more successful at this time than it had been previously.

Therefore, the treatment was not reasonable or necessary. Repeating physical therapy measures and other modalities such as injections that were previously unsuccessful, generally fail in significantly helping a chronic pain problem. This is especially the case when there is no objective evidence on examination or studies that indicates a reason for the continued pain.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.