

MDR Tracking Number: M5-04-1738-01

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 March 18, 2003.

In accordance with Rule 133.307 (d), requests for medical dispute resolution are considered timely if it is filed with the division no later than one (1) year after the date(s) of service in dispute. The Commission received the medical dispute resolution request on 03-18-03, therefore the following date(s) of service are not timely: 02-22-02

Requestor submitted a withdrawal for fee issues on the following dates of service: 04-29-02, 05-02-02, and 06-03-02.

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 visits (99213 & 99215) for 11-20-02 and 12-09-02 **were** found to be medically necessary. The office visit (99219) and the use of the Neurostimulator (64550) for 04-22-02 through 12-30-02 **were not** found to be medically necessary. The respondent raised no other reasons for denying reimbursement for services listed above.

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 11-20-02 and 12-09-02 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 26<sup>th</sup> day of April 2004.

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

April 2, 2004  
**Amended April 14, 2004**

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IRO #: 5251

\_\_\_ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this case to \_\_\_ for independent review in accordance with TWCC Rule 133.308 which allows for medical dispute resolution by an IRO.

\_\_\_ has performed an independent review of the care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). The \_\_\_ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors or providers who reviewed the case for a determination prior to the referral to \_\_\_ for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

#### CLINICAL HISTORY

Patient was being treated by \_\_\_ for primarily cervical spine injuries. The patient was denied surgery for the neck and \_\_\_ began to use Surface Neurostimulator on the patient. The insurance company denied payment of these treatments as well as office visits for the dates in question. Additionally, charges were denied for consultation fee.

#### DISPUTED SERVICES

Under dispute is the medical necessity of 64550 – appl of surface neurostim, 99213, 99215, 99219-ov.

#### DECISION

The reviewer disagrees with the previous adverse determination regarding 99213 & 99215.

The reviewer agrees with the previous adverse determination regarding the use of the Neurostimulator.

The reviewer agrees with the previous adverse determination regarding 99219.

#### BASIS FOR THE DECISION

This patient was seen in \_\_\_ office for treatment with the Neurostimulator from March, 2002 through December 2002. The physician has a duty to see a patient to assess the condition of the patient and make determination as to the appropriateness of care. For this reason, office visits should be paid. During this time frame, however, the patient entered with a pain score of 8-9. According to their records, at the end of the treatment day, the patient did have a decrease in pain, however, the pain level was increased again by the next visit. During the nine months of treatment, the patient's pain scores reflected brief periods of lower scores, but as of the last date they were recorded (12/18/02) the pain level was a 5. On 12/9/02 the pain score on entry into the clinic was an 8. There was a wide variance in pain scores and it appeared that the treatment gave temporary relief at best. In nine months time, you would expect to see much greater improvement, and less variance in the scores. The records claim great improvement in the patient's condition. While some ranges of motion did improve, others decreased.

Cervical extension did improve from 10 to 35 degrees, right rotation from 30 to 60 degrees, and right lateral flexion from 15 to 30 degrees, Cervical flexion decreased from 45 to 40, left rotation from 45 to 30 and left lateral flexion from 45 to 30. Additionally, the patient's Reflexes were listed as +2 on 9/26/02 and +1 on 12/9/92.

In retrospect, it does not appear that the treatment was effective. There is no documentation to support that this patient was ever able to return to work, other than in the letters of dispute of charges. There were no TWCC 73's included for review. The evidence presented was mostly subjective with very little objective information to substantiate this treatment.

Additionally, the charges for consultation should be denied. This charge is for consultation of various health care providers for coordination of care. It appears that in this instance, it was used for Doctor and licensed insurance adjuster to go over the case. There was no documentation to support that other health care providers were present.

\_\_\_ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. \_\_\_ has made no determinations regarding benefits available under the injured employee's policy

As an officer of \_\_\_ Inc, dba \_\_\_, I certify that there is no known conflict between the reviewer, \_\_\_ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

\_\_\_ is forwarding this finding by US Postal Service to the TWCC.

Sincerely,