

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

**SOAH DOCKET NO. 453-04-4598.M5**

MDR Tracking Number: M5-04-1849-01

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, 133.307 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 07-22-03.

The IRO reviewed office visits, myofascial release, therapeutic procedure, ultrasound therapy, hot/cold packs, electrical stimulation, unusual travel and special reports rendered from 7-22-02 through 11-27-02 denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on 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 \$460.00** 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 not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On October 24, 2003, 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 following table identifies the disputed service and Medical Review Division's rationale:

<b>DOS</b>	<b>CPT CODE</b>	<b>Billed</b>	<b>Paid</b>	<b>EOB Denial Code</b>	<b>MAR\$</b>	<b>Reference</b>	<b>Rationale</b>
10/15/02	99080-73	\$20.00	\$0.00	F	\$15.00	Rule 133.307(g)(3)(A-F)	Relevant documentation was submitted to support delivery of service. Reimbursement is recommended in amount of \$15.00
TOTAL		\$20.00	\$0.00		\$15.00		The requestor is entitled to reimbursement in the amount of \$15.00

This Decision is hereby issued this 2<sup>nd</sup> day of March 2004.

Debra L. Hewitt  
 Medical Dispute Resolution Officer  
 Medical Review Division

**ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for 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 Decision is applicable for dates of service 7/22/02 through 11/27/02 in this dispute.

This Order is hereby issued this 2<sup>nd</sup> day of March 2004.

Roy Lewis, Supervisor  
 Medical Dispute Resolution  
 Medical Review Division  
 RL/dlh

February 26, 2004

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

**REVISED REPORT**  
**Revised MDR tracking #.**

Re: MDR #: M5-04-1849-01  
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.

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.

**Clinical History:**

This female claimant injured her lumbar spine in a work-related accident on \_\_\_. She underwent conservative treatment until February 2003. Having failed with conservative measures, the patient opted for fusion surgery with instrumentation, which was accomplished on 02/05/03.

Two months post surgery, the patient was released back to her treating doctor for rehabilitation.

**Disputed Services:**

Office visits, myofascial release, therapeutic procedure, ultrasound therapy, hot/cold packs, electrical stimulation, electrodes, unusual travel, special report, and office visits with manipulations from 07/22/03 through 11/27/02.

**Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the treatments and services in dispute were medically necessary in this case.

**Rationale:**

No spine patient (barring loss of bowel and bladder function) is a candidate for surgery until conservative measures have been exhausted. The office visits were medically necessary and justified to monitor the patient's signs and symptoms, psychological state, and gross physical condition. The manipulation modifiers were appropriate for those office visits where the treating doctor was using drop-table adjusting to attempt to reduce

the anterolisthesis and manipulate the sacroiliac articulation. The therapeutic exercises were medically necessary to strengthen the paraspinal musculature to see if self-stabilization could be achieved. The miscellaneous passive modalities, heat, stimulation & electrodes, myofascial release, and ultrasound, were medically necessary to relieve pain, reduce spasm, and increase circulation. According to the documentation submitted, some of this passive therapy was performed post ESI to address the patient's complaints of pain. The unusual travel was necessary in order for the treating doctor to attend the RME to ensure the patient received a full and competent examination.

The reviewer supports this decision based on fourteen years of clinical experience, as well as the *1995 Spine Treatment Guidelines*, which require documented failure to improve in a conservative therapy program prior to being considered as a surgical candidate (Section D, Table IV). Also, *Rehabilitation for the Post-Surgical Orthopedic Patient*, by Maxey Magnuson, Mosby, 2001, Chapter 9, page 151, paragraph 3, states, "...back pain that is refractory to conservative care may be candidates for surgical evaluation." which is representative of innumerable medical publications that espouse similar doctrine.

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.

Sincerely,