

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:  
SOAH DOCKET NO. 453-05-2838.M5**

MDR Tracking Number: M5-04-1992-01

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 March 4, 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. The office visits, joint mobilization, myofascial release, group therapeutic procedure, therapeutic exercises, McKenzie roll, back hugger pillow support, tens consumable supplies, massage, electrical stimulation, diathermy, mechanical traction, range of motion, dynatron human performance test, muscle testing, analgesic balm, electrical stimulation unattended, chiropractic manipulation, electrical stimulation therapy, massage and crisscross orthopedic lumbar support from 04-10-03 thorough 05-21-03 **were found** to be medically necessary. The office visits, joint mobilization, myofascial release, group therapeutic procedure, therapeutic exercises, McKenzie roll, back hugger pillow support, tens consumable supplies, massage, electrical stimulation, diathermy, mechanical traction, range of motion, dynatron human performance test, muscle testing, analgesic balm, electrical stimulation unattended, chiropractic manipulation, electrical stimulation therapy, massage and crisscross orthopedic lumbar support from 05-23-03 through 10-07-03 **were not found** to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed services.

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 June 8, 2004, 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 services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Max. Allowable Reimbursement)	Reference	Rationale
04-09-03	99070- Large Cryopack	\$18.33	\$10.00	M	No MAR (DOP)	1996 MFG	In accordance with the 1996 Medical Fee Guideline, part VI of the General Instructions states that "a MAR is listed for each code excluding documentation of procedure (DOP) codes and HCPCS codes. HCPs shall bill their usual and customary charges. The insurance carrier will reimburse the lesser of the billed charge, or the MAR. CPT codes for which no reimbursement is listed (DOP) shall be reimbursed at the fair and reasonable rate." Relevant information (i.e. redacted EOBs- with same or similar services- showing amount billed is fair and reasonable) for 99070-Large Cryopack was not submitted by the requestor to confirm that \$18.33 is their usual and customary charge for this service. Therefore, no additional reimbursement is recommended.
04-09-03	99070- Analgesic Balm	\$8.00	\$0.00	N	No MAR (DOP)	1996 MFG	Requestor submitted relevant information to support services rendered. Therefore, reimbursement in the amount of \$8.00 is recommended in accordance with the 1996 Medical Fee Guideline.
04-23-03	99080- 73	\$15.00	\$0.00	U	\$15.00	1996 MFG, Rule 129.5	The TWCC-73 is not subject to an IRO review therefore, will be reviewed in accordance with 1996 MFG. Recommend reimbursement of \$15.00.
TOTAL		\$41.33					The requestor is entitled to reimbursement of \$23.00.

This Findings and Decision is hereby issued this 15<sup>th</sup> day of October 2004.

Patricia Rodriguez  
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 Order is applicable for dates of service 04-09-03 through 05-21-03 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 Order is hereby issued this 15<sup>th</sup> day of October 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/pr

May 14, 2004

## NOTICE OF INDEPENDENT REVIEW DECISION

**RE: MDR Tracking #: M5-04-1992-01**  
**TWCC #:**  
**Injured Employee:**  
**Requestor:**  
**Respondent:**  
**----- Case #:**

----- has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The ----- IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to ----- for independent review in accordance with this Rule.

----- has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing chiropractor on the ----- external review panel who is familiar with the with the condition and treatment options at issue in this appeal. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. The ----- chiropractor reviewer signed a statement certifying that no known conflicts of interest exist between this chiropractor and any of the treating physicians or

providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to ----- for independent review. In addition, the ----- chiropractor reviewer certified that the review was performed without bias for or against any party in this case.

### Clinical History

This case concerns a 37 year-old male who sustained a work related injury on ----- . The patient reported that while at work he injured his back while attempting to move a couch. The patient was initially treated with medications, chiropractic manipulation, and electrical stimulation. The patient underwent an MRI of the lumbar spine on 3/26/03 that was reported to have shown mild degenerative changes in the lower lumbar spine, and no evidence of HNP, significant extradural defect, or acquired spinal stenosis. The diagnoses for this patient have included displacement of lumbar intervertebral disc without myelopathy, lumbar sprain/strain, grade II, sprain of sacrum, grade II, and myofascial pain syndrome. The patient has been treated with a home therapy program of exercises, chiropractic care, physical medicine including active and passive therapy, electrical stimulation, diathermy, and myofascial release. The patient is also status post a previous work related injury on \_\_\_\_.

### Requested Services

Office visits, joint mobilization, myofascial release, group therapeutic procedure, therapeutic exercises, McKenzie lumbar roll, back hugger pillow support, tens consumable supplies, massage, electrical stimulation, diathermy, mechanical traction, range of motion, dynatron human performance test, muscle testing, analgesic balm, electrical stimulation unattended, chiropractic manipulation, electrical stimulation therapy, massage, and criss cross orthopedic lumbar support from 4/10/03 through 10/7/03.

### Documents and/or information used by the reviewer to reach a decision:

#### *Documents Submitted by Requestor:*

1. SOAP notes/Therapeutic notes 4/9/03 – 10/7/03

#### *Documents Submitted by Respondent:*

1. SOAP notes 4/11/03 – 5/12/03

### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is partially overturned.

### Rationale/Basis for Decision

The ----- chiropractor reviewer noted that this case concerns a 37 year-old male who sustained a work related injury to his back on ----- . The ----- chiropractor reviewer further noted that the diagnoses for this patient have included displacement of lumbar intervertebral disc without myelopathy, lumbar sprain/strain, grade II, sprain of sacrum, grade II, and myofascial pain syndrome. The ----- chiropractor reviewer further noted that treatment for this patient's condition has included a home therapy program of exercises, chiropractic care, and physical medicine

including active and passive therapy, electrical stimulation, diathermy, and myofascial release. The ----- chiropractor reviewer explained that there is no subjective improvement in the patient's pain after 6 weeks of extensive care. The ----- chiropractor reviewer indicated that the patient did get stronger via the Dynatron Testing only. The ----- chiropractor reviewer explained that that was the only objective finding that allows the 6 weeks of care. The ----- chiropractor reviewer also explained that standard protocol is if there is no significant benefit from care, a patient should be referred for other types of care. The ----- chiropractor reviewer further explained that this patient made no strides towards going back to work or resolving his condition. Therefore, the ----- chiropractor consultant concluded that the office visits, joint mobilization, myofascial release, group therapeutic procedure, therapeutic exercises, McKenzie lumbar roll, back hugger pillow support, tens consumable supplies, massage, electrical stimulation, diathermy, mechanical traction, range of motion, dynatron human performance test, muscle testing, analgesic balm, electrical stimulation unattended, chiropractic manipulation, electrical stimulation therapy, massage, and criss cross orthopedic lumbar support from 4/10/03 through 5/21/03 were medically necessary to treat this patient's condition. However, the ----- chiropractor consultant further concluded that the office visits, joint mobilization, myofascial release, group therapeutic procedure, therapeutic exercises, McKenzie lumbar roll, back hugger pillow support, tens consumable supplies, massage, electrical stimulation, diathermy, mechanical traction, range of motion, dynatron human performance test, muscle testing, analgesic balm, electrical stimulation unattended, chiropractic manipulation, electrical stimulation therapy, massage, and criss cross orthopedic lumbar support from 5/23/03 through 10/7/03 were not medically necessary to treat this patient's condition.

Sincerely,

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