

THIS DECISION HAS BEEN APPEALED. THE
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:
SOAH DOCKET NO. 453-05-0078.M5

MDR Tracking Number: M5-04-2322-01

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 assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. The dispute was received on 3-26-04.

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 \$650** 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 the only issue** to be resolved. The ultrasound, electrical stimulation, neuromuscular re-education, office visits, massage therapy, and chiropractic manipulative treatments from 12/23/03 through 1/15/04 were found to be medically necessary. The respondent raised no other reasons for denying reimbursement for the above listed service.

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 12/23/03 through 1/15/04 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 3rd day of August 2004.

Regina L. Cleave
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Medical Review Division

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NOTICE OF INDEPENDENT REVIEW DECISION

July 9, 2004

Re: IRO Case # M5-04-2322

Texas Worker's Compensation Commission:

Envoy Medical Systems, LP (Envoy) 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, Rule 133.308 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 Envoy for an independent review. Envoy has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, Envoy 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 a Board certified in Orthopedic 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 Envoy 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 Envoy reviewer who reviewed this case, based on the medical records provided, is as follows:

Medical Information Reviewed

1. Table of disputed service
2. Explanation of benefits

3. Letter from D.C. 5/25/04
4. Letter of medical necessity

5. Physical therapy prescriptions
6. D.C. notes
7. MR arthrogram left shoulder report 3/30/04
8. M.D. reports

History

The patient fell face forward to outstretched arms and landed on both knees, chest and left shoulder in _____. She complained of pain in all of these areas. She was treated conservatively by her internal medicine physician for some time. An MR arthrogram was eventually ordered, and it showed a tear of the anterior labrum, as well as pathology of the supraspinatus and infraspinatus, and a downward slope type III acromion. The patient was referred for orthopedic evaluation and chiropractic / physical therapy. From the records provided, it appears that the patient may require surgical decompression.

Requested Service(s)

Ultrasound, elec stim unattended, neuro re ed, OV, mass ther, CMT 5 reg 12/23/03 – 1/15/04

Decision

I disagree with the carrier's decision to deny the requested services.

Rationale

The patient did receive a somewhat delayed referral for physical therapy and referral to an orthopedic surgeon. The physical therapy and modalities that the patient received after the referral conforms to the standard of care. Although the referral should have been much earlier, the therapy provided appears from the records to have been appropriate.

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