

MDR Tracking Number: M5-04-3609-01

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 06-24-04.

The IRO reviewed office visits, special reports, range of motion, muscle testing, prolonged physical services, special materials, ice cap collar, manual therapy technique, therapeutic activities, therapeutic exercises, electrical stimulation-unattended, electrical stimulator supplies, 2 lead per month, hot/cold pack therapy rendered from 08-26-03 through 02-23-04 that were denied based upon "V".

The IRO determined that office visits, special reports, range of motion, muscle testing, prolonged physical services, therapeutic activities and therapeutic exercises for dates of service 08-26-03 through 10-27-03 as well as manual therapy technique from 08-26-03 through 09-30-03 **were** medically necessary. The IRO determined that special materials provided, ice cap collar, electrical stimulation-unattended, electrical stimulator supplies, 2 lead per month and hot/cold pack therapy **were not** medically necessary for any of the dates requested for review.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the **majority** of 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 10-29-04, 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.

Review of CPT codes 97140, 97540, 97110 date of service 09-12-03, G0283 date of service 10-21-03 and 10-24-03, code 97530 date of service 11-10-03 and code 97010 date of service 11-12-03 revealed that neither the requestor nor the respondent submitted EOBs. Per Rule 133.3079e)(2)(B) the requestor did not provide convincing evidence of carrier receipt of the providers request for EOBs. No reimbursement recommended.

This Findings and Decision is hereby issued this 17th day of December 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 Medicare program reimbursement methodologies effective August 1, 2003 per Commission Rule 134.202(c), 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 08-26-03 through 10-24-03 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 17th day of December 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/dlh

## NOTICE OF INDEPENDENT REVIEW DECISION

September 10, 2004

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
7551 Metro Center Drive, Suite 100, MS 48  
Austin, TX 78744-1609

RE: Injured Worker:  
MDR Tracking #: M5-04-3609-01  
IRO Certificate #: IRO4326

The Texas Medical Foundation (TMF) has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). The Texas Workers' Compensation Commission (TWCC) has assigned the above referenced case to TMF for independent review in accordance with TWCC Rule §133.308 which allows for medical dispute resolution by an IRO.

TMF has performed an independent review of the rendered care to determine if the adverse determination was appropriate. In performing this review, relevant medical records, any documents utilized by the parties referenced above in making the adverse determination and any documentation and written information submitted in support of the appeal was reviewed.

The independent review was performed by a matched peer with the treating health care professional. This case was reviewed by a health care professional licensed in Chiropractic Medicine. TMF's health care professional has signed a certification statement stating 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 the referral to TMF for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

### Clinical History

This 44 year-old male injured his back and elbow on \_\_\_ when he fell from the back of his truck approximately 5 feet and landed on his back and elbow. His diagnoses are lumbar strain and radicular syndrome lower extremities. He has been treated with therapy and medications.

### Requested Service(s)

99204 – office visits, 99080 – special reports, 95851 – range of motion, 95831 – muscle testing, 99354 prolonged physical services, 99070 – special materials provided, E0230-ice cap collar, 97140 – manual therapy technique, 97530 – therapeutic activities, 97110 – therapeutic exercises, 99212 & 99213 – office visits, G0283 – electrical stimulation-unattended, A4595 – electrical stimulator supplies, 2 lead,

per month, 97010 – hot/cold packs for dates of service 08/26/03 through 09/11/03 and 11/19/03 through 02/23/04. Also 99213 – office visit for 09/12/03, 10/13/03 through 10/21/03 and 99213 – office visit and 97140 – manual therapy tech for 10/24/03 and 11/19/03 through 02/23/04.

### Decision

It is determined that the office visits, special reports, range of motion, and muscle testing, prolonged physical services, therapeutic activities, and therapeutic exercises for dates of service 08/26/03 through 10/27/03 were medically necessary. Manual therapy technique was medically necessary from 08/26/03 through 09/30/03. However, the special materials provided, ice cap collar, electrical stimulation-unattended, electrical stimulator supplies, 2 lead per month, and hot/cold packs were not medically necessary for any of the dates requested.

### Rationale/Basis for Decision

Medical record documentation indicates that the office visits, special reports, range of motion, and muscle testing, and prolonged physical services for dates of service 08/26/03 through 10/27/03 were medically necessary for the evaluation of the patient. The therapeutic activities and therapeutic exercises were medically necessary. Haldeman et al indicated that it is beneficial to proceed to the rehabilitation phase of care as rapidly as possible to minimize dependence on passive forms of treatment/care and reaching the rehabilitation phase as rapidly as possible and minimizing dependence on passive treatment usually leads to the optimum result. (Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993.)

Medical record documentation for the use of manual therapy technique was medically necessary from 08/26/03 through 09/30/03. Haldeman et al indicated an adequate trial of care is necessary to demonstrate response to treatment. An adequate trial of care is defined as a course of two weeks each of different types of manual procedures (four weeks total), after which, in the absence of documented improvement, manual procedures are no longer indicated (Haldeman, S., Chapman-Smith, D., and Petersen, D., Guidelines for Chiropractic Quality Assurance and Practice Parameters, Aspen, Gaithersburg, Maryland, 1993.)

The special materials provided, ice cap collar, electrical stimulation-unattended, electrical stimulator supplies, 2 lead per month, and hot/cold packs were not medically necessary to treat this patient's condition. The Agency for Health Care Policy and Research: Clinical Practice Guideline Number 14, "Acute Low Back Problems in Adults" indicated "the use of physical agents and modalities in the treatment of acute low back problems is of insufficiently proven benefit to justify its cost." Therefore, the use of passive physical therapy modalities is not indicated after the first 2-3 weeks of care and not medically necessary to treat this patient's medical condition.

Sincerely,