

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

**SOAH DOCKET NO. 453-05-2933.M5**

MDR Tracking Number: M5-04-4295-01

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 August 20, 2004.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that the office visits (99204, 99211, 99212, 99214), aquatic therapy (97113), prolonged physical services (99354), neuromuscular stimulator-electric shock unit (E0745-P), and unlisted therapeutic procedure (97139) were not found to be medically necessary. 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. As the office visits (99204, 99211, 99212, 99214), aquatic therapy (97113), prolonged physical services (99354), neuromuscular stimulator-electric shock unit (E0745-P), and unlisted therapeutic procedure (97139) were not found to be medically necessary, reimbursement for dates of service from 9/3/03 through 9/23/03 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 22<sup>nd</sup> day of October 2004.

Margaret Q. Ojeda  
Medical Dispute Resolution Officer  
Medical Review Division

MQO/mqo

**Date:** October 19, 2004

**RE:**

**MDR Tracking #:** M5-04-4295-01

**IRO Certificate #:** 5242

\_\_\_ 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 \_\_\_ 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 proposed 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 Chiropractic reviewer who has an ADL certification. The reviewer 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 for independent review. In addition, the reviewer has certified that the review was performed without bias for or against any party to this case.

**Submitted by Requester:**

- Daily notes
- NCV test report
- MRI report
- Initial consultation notes
- Aquatic therapy notes

**Submitted by Respondent:**

- Medical Dispute Resolution Request
- RME report from \_\_\_\_

**Clinical History**

According to a consultation dated 9/3/03, the claimant slipped on an embankment and fell on his left side. The date of injury was \_\_\_\_\_. According to the supplied documentation, it appears the claimant underwent approximately 12 weeks of chiropractic treatment, which was mostly passive. On 5/3/03, the claimant underwent an NCV test. The test was interpreted by \_\_\_\_\_ who felt that the claimant's peroneal nerve and tibial nerve F-waves are essentially absent on the right side and may represent a compression of the nerve roots over the anterior aspect of the spinal cord. \_\_\_\_\_ felt an MRI would be needed to differentiate the two. A MRI dated 4/18/03 reported there was a 2 mm protrusion of the fourth and fifth thoracic intervertebral disc without any significant involvement of the thoracic spinal cord. No other significant changes were demonstrated. The remainder of the therapy revealed that the claimant was undergoing three units of aquatic therapy at an office visit. The documentation ends on 9/23/03.

**Requested Service(s)**

Office Visits (99204, 99211, 99212, 99214), Aquatic Therapy (97113), Prolonged Physical Services (99354), Neuromuscular Stimulator-Electric Shock Unit (E0745-P), and Unlisted Therapeutic Procedures (97139) for dates of service 9/3/03 through 9/23/03.

**Decision**

I agree with the insurance carrier and disagree with the treating doctor that the services rendered between 9/3/03 and 9/23/03 were not medically necessary.

**Rationale/Basis for Decision**

According to the supplied documentation, it appears the claimant sustained an injury to his thoracic spine on \_\_\_\_\_ when he fell on his left side. An MRI supplied with the objective documentation revealed that the

claimant had a 2 mm disc bulge at two levels in the thoracic spine that did not impinge on any nerve roots or indent the thecal sac. The results of the NCV do not correlate with the clinical findings or with the MRI report. This would limit the diagnosis to a thoracic sprain/strain. It appears that the claimant underwent an adequate amount of passive and active therapy prior to the dates of service in question. \_\_\_ report states that an FCE was performed in his office and it was noted that the claimant was at a heavy work based physical demand level. There is no supporting documentation supplied from the provider that would validate the need for an aquatic program that was rendered from dates 9/3/03 until 9/23/03. After referencing the Occupational Medicine Practice Guidelines, Second Edition, as well as the Official Disability Guidelines, there were no references to therapies being rendered beyond a typical eight-week protocol without radicular signs. Since the MRI revealed the claimant had no nerve root impingement or compression of the spinal cord, then ongoing therapy beyond the initial eight weeks is not seen as reasonable or medically necessary.