

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:  
SOAH DOCKET NO. 453-05-4467.M5**

MDR Tracking Number: M5-05-0178-01

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. This dispute was received on 09-13-04.

The IRO reviewed neuromuscular re-education, therapeutic procedures, supplies, DME, manipulations, manual therapy, office visits, electrical stimulation and ultrasound rendered from 09-10-03 through 11-17-03 that was denied based upon "V".

The IRO determined that neuromuscular re-education, therapeutic procedures and manual therapy from 09-10-03 through 11-04-03 and office visits **were** medically necessary. The IRO determined that neuromuscular re-education, therapeutic procedures and manual therapy on 11-06 and 11-07-03, manual manipulation, durable medical equipment, supplies, ultrasound and electrical stimulation **were not** medically necessary.

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.

This Findings and Decision is hereby issued this 8<sup>th</sup> day of February 2005.

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 09-10-03 through 11-07-03 in this dispute.

This Order is hereby issued this 8th day of February 2005.

Margaret Ojeda, Supervisor  
Medical Dispute Resolution  
Medical Review Division

MQO:dlh

Enclosure: IRO Decision

January 21, 2005  
February 3, 2005

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

### REVISED REPORT

Re: Medical Dispute Resolution  
MDR #: M5-05-0178-01  
TWCC#:  
Injured Employee:  
DOI:  
SS#:  
IRO Certificate No.: IRO 5055

Dear Ms. \_\_\_\_:

IRI has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, IRI reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of Independent Review, Inc. 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.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is licensed in chiropractic and is currently on the TWCC Approved Doctor List.

## REVIEWER'S REPORT

### Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor:

- Treatment summations 10/14/04 & 11/09/03
- Office notes 10/21/02 – 11/17/03
- Physical therapy notes 09/10/03 – 11/07/03
- EMB/NCS report 02/05/03
- Operative reports 04/10/02 – 03/03 04
- Radiology reports 09/28/01 – 06/17/02

Information provided by Respondent:

- Retrospective review (revised) 04/24/03

Information provided by Orthopedic Spine Surgeon:

- Office notes 03/05/03 – 11/04/03
- Operative report 03/24/03

### Clinical History:

This is a claimant who injured herself while performing work duties and functions on the date of \_\_\_\_\_. She reports that her job duties required her to talk on the phone while at the same time performing data entry on her computer.

### Disputed Services:

Neuromuscular re-education, therapeutic procedures, supplies, DME, manipulations, manual therapy, office visits, ultrasound and **electrical stimulation** during the period of 09/10/03 thru 11/17/03

### Decision:

The reviewer partially agrees with the determination of the insurance carrier as follows:

Medically Necessary:

- Neuromuscular re-education from 09/10/03 thru 11/04/03
- Therapeutic procedures from 09/10/03 thru 11/04/03
- Manual therapy from 09/10/03 thru 11/04/03
- Office visits

Not Medically Necessary:

- Neuromuscular re-education on 11/06 & 11/07/03
- Therapeutic procedures on 11/06 & 11/07/03
- Manual therapy on 11/06 & 11/07/03
- Manual manipulation
- Durable medical equipment
- Supplies
- Ultrasound
- Electrical stimulation**

**Rationale:**

Regarding neuromuscular re-education, therapeutic procedures and manual therapy, the reviewer agrees with the treatment given from the time base of 9/10/03 through 11/04/03. However, the reviewer disagrees with any manual manipulation and durable medical equipment and/or supplies that were given to the patient during this time frame. The reviewer disagrees with any passive modalities such as ultrasound and any other passive modalities that were applied during this time period. The treatment that was given in the area of neuromuscular re-education and therapeutic procedures along with manual therapy is warranted due to the additional trauma of both surgeries along with the fusions of these areas. I do not agree with manual therapy given to the segments in close proximity to the segments that were fused. I feel that any motion to those joints would be satisfactorily completed with any therapeutic procedures and manual therapy to those areas. The office visits are obviously warranted in order to do the hands-on retraining and therapeutic procedures during this time frame.

Some of the neuromuscular re-education, therapeutic procedures and manual therapy was protracted out to a point beyond that which was medically necessary. In this case, the reviewer believes that since the date of injury was so much earlier than the time frame that this treating doctor had taken this patient through the therapeutic procedures, roughly 24 visits would be valid for retraining and the exercising along with a home-exercise program that a patient could basically re-introduce to themselves on an as needed basis at home.

The guidelines from Chiropractic Quality Assurance and Practice Parameters would basically support the fact that this patient's condition was chronic upon presentation. However, 24 visits were warranted during this time frame. No chiropractic adjustments or manipulation typically have been documented as a necessity in a case like this according to those quality assurance and practice parameters. Any kind of chronicity, any kind of illness type of behavior or de-conditioning that would lead to any kind of over-utilization is the reason for approving the 24 visits as opposed to 35.

Sincerely,

Gilbert Prud'homme  
Secretary & General Counsel  
GP:thh