

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

**SOAH DOCKET NO. 453-05-3725.M5**

MDR Tracking Number: M5-05-0303-01

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 9-21-04.

The IRO reviewed office consultation and report.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division. On 10-13-04, 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.

Code 99080-73 billed for date of service 2-23-04 was denied as unnecessary medical; however, per Rule 129.5, the TWCC-73 is a required report and is not subject to an IRO review. The Medical Review Division has jurisdiction in this matter; therefore, recommend reimbursement of \$15.00.

**ORDER**

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 outlined above as follows:

- In accordance with TWCC reimbursement methodologies regarding Work Status Reports for dates of service on or after August 1, 2003 per Commission Rule 134.202 (e)(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 date of service 2-23-04 as outlined above 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 30th day of December 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

Enclosure: IRO Decision

**IRO Medical Dispute Resolution M5 Retrospective Medical Necessity  
IRO Decision Notification Letter**

Date: 12/28/2004  
Injured Employee:  
MDR #: M5-05-0303-01  
TWCC #:  
MCMC Certification #: 5294

DETERMINATION: Denied

**Requested Services:**

Please review the item in dispute regarding #99244-office visit new patient, #99-80-required report. Do not review CPT codes 99080-73 this is a fee issue.

Denied by carrier for medical necessity with "U" codes.

MCMC llc (MCMC) is an Independent Review Organization (IRO) that was selected by The Texas Workers' Compensation Commission to render a recommendation regarding the medical necessity of the above Requested Service.

Please be advised that a MCMC Physician Advisor has determined that your request for M5 Retrospective Medical Dispute Resolution on (DATE) concerning the medical necessity of the above referenced requested service hereby find the following:

The medical necessity of the office visit and required report captioned above is not established.

This finding is based on:

- \*Notification of IRO assignment dated 10/13/2004
- \*TWCC MR-117 dated 10/13/2004
- \*TWCC-60 stamped "received" on 09/21/2004, 3 pgs
- \*Letters from Texas A&M University System dated 09/02/2004, 08/10 \*Explanation of Benefits dated 3/30/2004, 2 pgs.
- \*Letter from Lonestar Orthopedics dated 08/11/2004
- \*Risk Management Texas A&M Univ, Health Insurance Claim form
- \*TWCC 73 dated 02/23/2004
- \*Letter from Lonestar Orthopedics dated 02/23/2004 3 pgs, 09/13/2003 2 pgs.
- \*TWCC MR-116 dated 10/13/2004
- \*Fax cover from Medical Business Management Services dated 11/08/2004
- \*Letter from Texas A&M University System dated 11/05/2004 4 pgs \*Electromyography Report dated 02/20/2003, 2 pgs.
- \*Workers Compensation Narrative Report from Bryan Neurology Services, PA, dated 02/20/2003, 3 pgs
- \*Letters from William Gaines, MD dated 04/02/2003, 3 pgs.; 02/20/2003, 3 pgs.
- \*Initial Medical Narrative Report, John Wyatt, DC. 5 pgs.
- \*Fax cover from Medical Management Services ("Part 2") dated 11/08/2004
- \*TWCC 73 dated 04/10/2003
- \*Initial Assessment/Physical Examination, The Suchowiecky Center, dated 04/22/2003, 5 pgs.
- \*Letter from Karl Hermann, PT, PhD (The Therapy Center), dated 02/13/2003
- \*SOAP notes from the Back and Joint Clinic dated 05/05/2003 through 06/23/2003, 3 pgs.

\*Letter from Medical Business Management Services dated 11/05/2004, 4 pgs.

\*Initial Medical Narrative Report from the Back and Joint Clinic dated 04/09/2003, 6 pgs.

The injured individual sustained a reported work related incident on \_\_\_\_\_. He attended a number of treatment, diagnostic testing and consultative referrals during the course of care. There is no hard clinical information to suggest that the medical necessity for another consultative referral examination existed on 02/23/2004. Specifically, the injured worker was treated by Dr. Wyatt, D.C., Dr. Gaines, M.D., Dr. Suchoweicky, M.D., and Dr. Light. Additionally, the injured individual attended MRI examinations as well as nerve conduction testing and an EMG. No included clinical data suggests that ongoing objective findings would support additional consultative referrals beyond what had already been ordered. Initial MRI findings had been opined as normal for the injured worker's age and a second exam found no additional neural compromise as per the report of Dr. Gaines. Electrodiagnostic testing was found to be normal and prior consultative referrals found the injured worker to be neurologically intact on 02/20/2003 by Dr. Light and, from an orthopedic standpoint, was opined to exhibit no substantial physical findings on 04/02/2003 by Dr. Gaines.

Furthermore, the claimant had already attended a return to work program in the form of chronic pain management. This is a tertiary level program, which would be expected to represent an end to aggressive treatment and consultative referrals.

Also, Dr. Light had opined that the injured worker exhibited some possible signs of psychological overlay. Compliance issues and less than optimal effort within the confines of active care had also been previously noted.

Lastly, the injured worker was opined to be at MMI as of 04/02/2003. No further consultations were recommended and would not be reasonably expected after this particular examination, especially given the lack of significant clinical findings and the time transpired since the date of injury.

Records indicate that the above-injured individual, a 37-year old male, was allegedly involved in an occupational incident on \_\_\_\_\_. The history reveals that the injured individual was moving a heavy couch and felt pain in his low back. He was initially treated in an emergency facility and released. Diagnostic tests attended to date include a MRI and EMG. MRIs were performed on 08/26/2002 and 03/26/2003. The 08/26/2002 MRI reportedly indicates a disc protrusion at L5/S1 and a bulge at L4/L5. Neither of the disc lesions resulted in neural compromise. The MRI dated 03/26/2003, reportedly showed, according to the consultative referral, increased protrusion at the L5/S1 level with foraminal stenosis, however prior consultative referrals offer differing opinions and no report is included in the submitted clinical data. In April of 2003, the injured individual presented to the office of Dr. Wyatt, DC and was initiated on a course of chiropractic care to include physical therapy. This injured individual has also apparently participated in a 20-session chronic pain management program.

In light of the issues raised above, the medical necessity for the items listed above is not established.

The reviewing provider is a Licensed Chiropractor and certifies that no known conflict of interest exists between the reviewing Chiropractors and any of the treating providers or any providers who reviewed the case for determination prior to referral to the IRO. The reviewing physician is on TWCC's Approved Doctor List.

This decision by MCMC is deemed to be a Commission decision and order (133.308(p) (5)).

**In accordance with commission rule 102.4(h), I hereby verify that a copy of this Independent Review Organization (IRO) Decision was sent via facsimile to the office of TWCC on this**

**10<sup>th</sup> day of December 2004.**

**Signature of IRO Employee:** \_\_\_\_\_

**Printed Name of IRO Employee:** \_\_\_\_\_