

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

SOAH DOCKET NO. 453-05-3674.M5

MDR Tracking Number: M5-05-0396-01

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 09-30-04.

The IRO reviewed office visits, manual therapy techniques, electrical stimulation unattended, osteopathic manipulative treatment, therapeutic procedure, range of motion, massage therapy, myofascial release and ultrasound therapy rendered from 10-21-03 through 01-21-04 that were denied based upon "V".

The IRO determined that the office visits on 10-21-03 and 01-05-04 **were** medically necessary. The IRO determined that the remaining services rendered on 10-21-03 through 01-05-04 (excluding the office visits on 10-21-03 and 01-05-04) **were not** medically necessary.

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

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 10-26-04, 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.

CPT code 99080-73 dates of service 10-21-03 and 01-21-04 listed on the table of disputed services have been paid per the carrier's EOBs in the amount of \$15.00 and \$15.00 respectively via check numbers 05685557 and 05685558 respectively. This code for these dates of service will not be reviewed by the Medical Review Division as the MAR has been paid.

CPT code 20550 (5 units) date of service 10-28-03 denied with denial code "F" (fee guideline reduction). The carrier has paid \$166.75 per the EOB and check number 05477702. The MAR is \$333.50 (\$53.36 X 125% = \$66.70 X 5 units). Additional reimbursement is recommended in the amount of \$166.75.

CPT code 99205 date of service 01-02-04 denied with denial code "G" (office visit is included in the value of the surgery or anesthesia procedure). Per Ingenix code 99205 is not global to CPT code 20552 billed on date of service 01-02-04. Reimbursement is recommended per the Medical Fee Schedule effective 08-01-03 in the amount of \$205.39 (\$164.31 X 125%).

CPT code 20552 date of service 01-02-04 listed on the table of disputed services has been paid per the carrier's EOB in the amount of \$50.00 with check number 05571139. The MAR is \$64.20 (\$51.36 X 125%), however the requestor billed \$50.00. No additional reimbursement is recommended.

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 Medicare program reimbursement methodologies for dates of service on or after 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 10-21-03, 10-28-03, 01-02-04 and 01-05-04 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 Findings and Decision and Order are hereby issued this 3rd day of January 2005.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

DLH/dlh

Date: November 17, 2004

RE:
MDR Tracking #: M5-05-0396-01
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 Physical Medicine/Rehabilitation/Chiropractic reviewer (who is board certified in Physical Medicine/Rehabilitation) 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:

- Treatment notes from ___
- Occupational therapy notes from ___

- Notes from ____
- Notes from ____
- Notes by ____
- Billing information

Submitted by Respondent:

- None Provided

Clinical History

This claimant has a date of injury of ____ and has subsequently been treated for ongoing complaints with myofasciitis in the cervical region, both left and right.

10/22/02 – There is a follow up note with ____ and he has done 2 sets of trigger point injections on this claimant. On this date he performs 8 trigger point injections all on the right side in the cervical musculature. He then performs massage and stretch as well as myofascial release and a home stretching program is shown. He orders 7 sessions to follow of conservative care with modalities. The claimant is on Vicodin and Valium short term and Motrin. She is to return back to full duty work on 10/25/02 and states follow up in 2 weeks.

11/4/02 – Occupational therapy note on this date for treatment status post injection of 10/22/02 to the right trapezius and right rhomboids.

11/13/02 – There is an occupational therapy evaluation where the claimant is status post injections to the cervical spine. Diagnosis is cervical myofasciitis. She is noted to have a slight Dowager’s hump. States claimant reports being compliance with her home exercise program. She is discharged on this date from post injection therapy where she had 5 sessions of ultrasound, heat, STM and exercises.

1/28/03 – Note by _____. The claimant is status post 3 sets of trigger point injections and 80% improved. States she has cervical facet joint syndrome at the C4 on the right. He also performs manual manipulation and myofascial release on this date and plans to perform Botox injections into the right cervical musculature.

2/27/03 – ____ follow up. Treatment is for muscle spasms. He offers Botox injection with EMG guidance and follows this with massage, stretch techniques and home exercise program. He gives the claimant a prescription for 7 sessions of conservative care to include hot moist packs, stretching, massage and electrical stimulation. She is given Vicodin and Valium once again short term and in 3 weeks back to full duty work on 3/2/03.

5/10/03 – ____ follow up. The claimant is status post one recent set of Botox injections on 2/27/03. She is better where she was injected but now she is complaining of the left side. A second set of Botox injections to the left is planned. Manual manipulation and myofascial release once again is performed.

10/21/03 – There is a note from ____ follow up where the claimant has had the Botox injections that helps. She sees ____ for trigger point injections and then follows with therapy.

10/28/03 – Follow up with _____. The claimant is now complaining of left upper extremity pain, left cervical pain in the musculature. She is offered trigger point injections 6 times on this visit, 3 to each trapezius on the left, 2 to the left rhomboids and one to the cervical paraspinals. Also cervical manual manipulation is

performed, myofascial release, massage and stretching techniques. Home exercise program is to be performed. Occupational therapy prescription is written for 7 sessions consecutively of hot moist packs, stretching, massage, and electrical stimulation. She is to return back to work full duty on 10/31/03 and follow up in 2 weeks. No medications are ordered on this date as it is stated none are needed as she is 80% improved from her trigger point injections.

12/18/03 – ___ note. The claimant has returned to work. She received her trigger point injections from ___ and physical therapy following. In this note he states he disagrees with ___ and his opinion. ___ report was not in the records. On this exam he is also now stating the claimant has right shoulder signs of impingement and wants an MRI of the shoulder. He states he is going to refer the claimant to ___ and/or his PA for additional trigger point injections.

There are therapy sessions then provided on numerous and multiple dates from 1/26/03 through 9/9/03 for approximately 15 sessions. At most of the sessions her pain is reported at a 3-4/10. Therapy notes continue from 10/28/03 through 2/25/04 for another 18 sessions.

Diagnoses on work forms found are myofasciitis neck, thoracic, shoulder and forearm, possible bilateral carpal tunnel syndrome. These are present from 5/2/03 through 5/17/04.

1/2/04 – There is a note by ___ where the claimant is having trigger point injection therapy with ___ it states, and this claimant has subsequently been referred to this physicians assistant by ___ to continue trigger point injections. Diagnosis is myofasciitis of the cervicothoracic region as well as bilateral carpal tunnel syndrome, right greater than left. Three trigger point injections are given on this date to the left trapezius region. Recommendation is for following this injection 6 sessions of physical therapy to be performed.

1/24/04 - Follow up ___. States claimant is status post trigger point injections now with ___ and has completed 6 of 7 post injection therapy visits following.

1/27/04 – There is a physical performance evaluation performed by ___. This is a computerized test that rates cervical and shoulders as well as the claimant's wrist, grip and pinch. He performs an impairment rating from this evaluation and gives this claimant a 20% whole person impairment rating. In my opinion this is way beyond usual and customary in value compared to AMA guidelines for impairment rating evaluations that I have seen by other physicians and what I myself perform.

2/24/04 – ___ follow up. The claimant had 6 weeks decreased pain from trigger point injections given on 1/2/04. On this date, he gives her 4 more trigger point injections once again recommending 6 sessions of conservative care following the injections.

2/26/04 to 9/16/04 – There are approximately 20 therapy session notes. On most of these sessions the claimant is undergoing manual manipulation, on some of notes are myofascial release, ultrasound, electrical stimulation and heat.

5/10/04 – Follow up ___

5/13/04 – ___ follow up. The claimant is status post trigger point injections from 2/24/04. On this date he provides another 5 trigger point injections and recommends another 6 sessions of conservative care to follow and to remain on over the counter anti-inflammatory medications as needed.

5/21/04 – Follow up _____. He discusses MRI findings of the cervical that show only mild findings. Trigger point injections are performed and states that these are helping.

6/17/04 – Follow up again with _____. He gives 4 trigger point injections on this date, orders Bextra four times daily. After his injections once again he orders 6 sessions of therapy to include electrical stimulation, ultrasound, and mobilization to the cervical spine as well as follow up with _____ and to see him in one week.

9/10/04 – There is a follow up with _____. In that note he states that it has been almost 4 months since he saw the claimant last, that she received good relief of approximately 3 months with her trigger point injections; however, she still has it states significantly limited or fixation motion observed. At this point he wants her to see _____ again for follow up and also to review her MRI films. Medication will be refilled by _____, _____.

9/16/04 – _____ once again provides a note. He is working it appears under _____; however, _____ has not signed off on any of the notes that were provided for review. States history of trigger points and myofascial pain syndrome of the bilateral trapezius. The claimant is on Bextra and is scheduled for an EMG with _____. Follow up as needed.

9/24/04 – There is a letter from _____ in dispute. States that claimant continues to complain of neck pain with limited range of motion. She is having trigger point injections with associated therapy which is the only thing that has helped her. This provides her temporary relief it appears for 2.5 to 3 months. He would like her to see _____ again who he states is certified in pain management.

Requested Service(s)

99213 - office visit, 97140 – manual therapy techniques, G0283 – electrical stimulation unattended, 98925 – osteopathic manipulative treatment, 97110 – therapeutic procedure, range of motion, 97124 – massage therapy, 97250 - myofascial release, 97035 – ultrasound from dates of service 10/21/03 thru 1/21/04.

Decision

I agree with the treating provider that the office visits rendered on 10/21/03 and 1/5/04 were medically necessary. I disagree with the treating provider and agree with the insurance carrier that the remainder of the services were not medically necessary.

Rationale/Basis for Decision

The claimant appears to have chronic cervical spine complaints with muscular spasms. It appears her complaint is mainly that of muscle spasms from documentation reviewed. This claimant is a chronic, not acute, patient with ongoing muscle spasm complaints. It appears that she is able to work and that she requires minimal medications. Ongoing conservative care at the extent that has been supplied to this claimant would be outside usual and customary guidelines. This type of modality care that has been rendered is, in my opinion, not medically necessary as a part of this claimant's care. The most significant treatment that this claimant could perform for her muscle spasms is to be performing an active home exercise program that it appears she has been taught on several occasions and to do this at a frequency of at least 3-4 times daily. The exercise stretching, strengthening has shown to be one of the most effective ways to break the chronic muscle spasms and this can be performed on an at home basis. Heat and ice can be used at home. Over the counter medications such as Aleve or Naproxen can be used as needed. Therefore, it is my opinion that there is lack of medical documentation justification to support ongoing conservative care at this point in this now chronic patient's treatment protocol. Trigger point injections can help temporarily. It is not usual and

customary that therapy has to be administered following these injections. I routinely perform injections in my office and I have never found the need to have conservative care rendered for 7 sessions consecutively to get good results. At this point, this claimant needs to be followed by one provider and I feel that provider should at least be an M.D. as trigger point injections can be treatment adjunct to a home exercise program. I would deny all visits to ____, during the dates at issue, however, he is the treating physician of record, and therefore an office visit approximately every month should suffice to act as the gatekeeper. All physical therapy that has been performed and billed is not necessary for the dates above. It appears the claimant is able to work full duty and is on little to minimal medications. Injection therapy should provide prolonged relief without therapy following for at least 4-6 months with the claimant being actively involved in her own care which means she must be performing her home exercise program 3-4 times daily to get the maximum response from release of the spasms.

In summary, I feel that the all the disputed items should be denied except the two office visits as noted above.