

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 10-13-04.

The IRO reviewed therapeutic exercises, neuromuscular re-education, manual therapy, electrical stimulation, office visits and durable medical equipment rendered from 02-06-04 through 04-14-04 that were denied based upon "V".

The IRO determined that electrical stimulation, office visits and durable medical equipment for dates of service 02-06-04 through 04-14-04 **were not** medically necessary. The IRO determined that therapeutic exercises, neuromuscular re-education and manual therapy for dates of service 02-06-04 through 04-14-04 **were** 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.

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 11-09-04, 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 is listed on the table of disputed services submitted by the requestor. The explanation of benefits provided by the carrier indicates payment in the amount of \$15.00 has been made via check 07770660. This service will not be reviewed by the 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 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 02-06-04 through 04-14-04 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 20th day of January 2005.

Medical Dispute Resolution Officer  
Medical Review Division  
DLH/dlh

Enclosure: IRO Decision

## NOTICE OF INDEPENDENT REVIEW DECISION

December 16, 2004

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 #: M5-05-0526-01  
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 47 year-old male injured both his knees when he fell off a loading dock. He has been treated with therapy. The magnetic resonance imaging on 10/22/03 demonstrated Grade II signal within the posterior horn of the medial meniscus indicating intrasubstance tear of the right knee and Grade III tear of the posterior horn of the medical meniscus of the left knee.

### Requested Service(s)

Therapeutic exercises, neuromuscular re-education, manual therapy, electrical stimulation, office visits (established), durable medical equipment (DME) for dates of service 02/06/04 through 04/14/04. (Do not review special reports for date of service 02/09/04)

### Decision

It is determined that there is no medical necessity for the electrical stimulation office visits (established) and the durable medical equipment (DME) for dates of service 02/06/04 through 04/14/04. However, there is medical necessity for the therapeutic exercises, neuromuscular re-education, and manual therapy for dates of service 02/06/04 through 04/14/04 to treat this patient's medical condition. Special reports for date of service 02/09/04 was not reviewed.

### Rationale/Basis for Decision

Medical record documentation indicates this patient was a surgical candidate. General guidelines of clinical practice and/or peer-reviewed references indicate a complete course of conservative management is vital prior to the application of surgical applications.

During physical therapy applications in conservative management, great focus must be placed on active, patient-driven therapeutics and a lessened reliance is warranted on passive applications. This process may facilitate greater muscle gain and range of motion that allows a better response to invasive applications. Therefore, the passive applications of electrical stimulation, office visits (established) and the durable medical equipment (DME) for dates of service 02/06/04 through 04/14/04 were not medically necessary to treat this patient's medical condition. However the active applications of therapeutic exercises, neuromuscular re-education, and manual therapy for dates of service 02/06/04 through 04/14/04 were medically necessary to treat this patient's medical.

Sincerely,

Gordon B. Strom, Jr., MD  
Director of Medical Assessment

GBS:dm  
Attachment

**Information Submitted to TMF for TWCC Review**

**Patient Name:**

**TWCC ID #:** M5-05-0526-01

**Information Submitted by Requestor:**

- Position Statement
- Diagnostic Tests
- Designated Doctor Evaluation
- Orthopedic Notes
- Initial Medical Report
- Progress Notes

**Information Submitted by Respondent:**