

MDR Tracking Number: M5-05-0945-01

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 11-22-04.

The IRO reviewed needle EMG, nerve conduction studies, and H-reflex studies on 7-21-04.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the 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.

### **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 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 Order is applicable to date of service 7-21-04 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

December 30, 2004

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

**CORRECTED REPORT**

**Corrected date of service in dispute.**

Re: Medical Dispute Resolution  
MDR #: M5-05-0945-01  
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.

Sincerely,

Gilbert Prud'homme  
Secretary & General Counsel

GP:thh

**REVIEWER'S REPORT**  
**M5-05-0945-01**

**Information Provided for Review:**

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

Information provided by Requestor:

- Letter of medical necessity
- Electrodiagnostic evaluations 04/28/04 – 07/21/04

Information provided by Respondent:

- Correspondence
- Physician review

Information provided by Treating Doctor:

- Office notes 07/23/04 – 11/15/04
- Physical therapy notes 06/21/04 – 11/19/04
- FCE 09/13/04
- Radiology report 07/14/04

Information provided by Spine Surgeon:

- Office notes 09/20/04 – 11/01/04
- Procedure report 10/06/04

Information provided by Osteopathy:

- Office notes 05/14/04 – 06/11/04

**Clinical History:**

Patient is a 46-year-old male who, on \_\_\_\_, felt a sharp pain in his lower back with radiation of pain into both his legs following an on-the-job injury. He presented to a doctor of chiropractic who initiated conservative chiropractic care, including physical therapy. On 07/14/04, a lumbar MRI was ordered that revealed multilevel spondylosis, left inferior foraminal protrusion at L4-5 with narrowing of the left foramen and possible left L4 radiculopathy, and a right inferior foraminal protrusion at L3-4 with narrowing of the right foramen and possible L3 radiculopathy. In light of these findings, electrodiagnostic testing was then ordered and performed on 07/21/04.

**Disputed Services:**

Needle EMG, nerve conduction studies and H-reflex study on 07/21/04.

**Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the needle EMG, nerve conduction studies and H-reflex study on 07/21/04 were medically necessary in this case.

**Rationale:**

In this case, the medical records adequately document that a compensable injury in the lower back. When the patient's response to initial treatment was limited, an MRI was ordered. The results were somewhat inconclusive in terms of definitively identifying the source of the radicular pain, and so it was reasonable to order electrodiagnostic testing to that end.

The Millman & Robertson Guidelines for lumbar electrodiagnostic testing state that it is indicated for ANY ONE of the following: (1) Differentiation of other nerve disorders, such as peripheral neuropathy, peripheral nerve entrapment, diabetes, or demyelinating disease, from nerve root entrapment or myelopathy when diagnosis is unclear with imaging or surgery is being considered [emphasis added]; (2) when nerve root symptoms do not match imaging exam, thereby giving a better idea of prognosis for improvement. In this instance, this criterion was met, and the diagnostic testing was therefore medically necessary.