

MDR Tracking Number: M5-05-1079-01

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 12-7-04.

The IRO reviewed consultation, prolonged E/M service, needle EMG (95861), needle EMG (95869) NCV w/o F-wave, NCV w/ F-wave, H-reflex study, manual muscle testing, ROM testing, conductive paste, sterile needles, electrodes, betadine/phisohex solution, alcohol/peroxide, and tape.

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the majority of the medical necessity issues. The IRO agreed with the previous adverse determination that the needle EMG (95869), NCV w/ F-wave, NCV w/o F-wave, manual muscle testing, and ROM testing were not medically necessary. The IRO deemed that the consultation, prolonged E/M service, needle EMG (95861), H-reflex study, conductive paste, sterile needles, electrodes, betadine/phisohex solution, alcohol/peroxide, and tape were medically necessary. 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 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 12-9-03 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 21st day of January 2005.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

MEDICAL REVIEW OF TEXAS
[IRO #5259]
3402 Vanshire Drive Austin, Texas 78738
Phone: 512-402-1400 FAX: 512-402-1012

NOTICE OF INDEPENDENT REVIEW DETERMINATION

TWCC Case Number:	
MDR Tracking Number:	M5-05-1079-01
Name of Patient:	
Name of URA/Payer:	Advanced Neurological
Name of Provider:	Advanced Neurological
<small>(ER, Hospital, or Other Facility)</small>	
Name of Physician:	Sheldon Ball, DC
<small>(Treating or Requesting)</small>	

January 18, 2005

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Texas Workers Compensation Commission

CLINICAL HISTORY

Available information suggests that this patient reports experiencing an occupational low back injury on _____. It appears that he was seen initially by a physician's assistant at Concentra Medical Center and assessed with the condition of lumbar strain. He is provided with medications and given a short course of physical therapy. The patient

later presents to a Roger Beaudoin, MD and is found with a right fibular fracture and extensor muscle tear in addition to degenerative lumbar spondylosis. The patient is referred for orthopedic evaluation and physical therapy. Past medical history is found significant for a 1976 fracture of the neck, 1983 right leg fracture and 1981 lumbar surgery. MRI of the lumbar spine shows moderate spondylosis throughout with severe degenerative disease at L4/5. MRI of the pelvis shows sprain of the left adductors, and MRI of the right leg shows oblique fracture of the fibula, nondisplaced with tear of the extensor hallucis longus. The patient has undergone multiple ESIs, multiple sessions of physical therapy and apparently begins a new course of therapy with chiropractors, Dr. Ball and Dr. Saul on or about 10/21/03. The patient is referred to another orthopedist, Dr. Vaughn and to an osteopath, Dr. Ferrell, both of which recommend that the patient be sent for EMG studies. On 12/09/03 the patient appears to be seen by another chiropractor, Dr. Slaughter, for EMG/NCV studies suggesting chronic L5/S1 irritation.

REQUESTED SERVICE(S)

Determine medical necessity for 99244 consultation, 99358 prolonged E/M service, 95861 needle EMG for paraspinal areas, 95869 needle EMG thoracic paraspinal areas, 95900 nerve conduction studies, 95903 F-wave studies, 95934 H-reflex studies, 95831 manual muscle testing, 95851 ROM studies, A4558 conductive gel, A4215 sterile needles, A4556 electrodes, A4246 Betadine or Physohex solution, A4244 alcohol or peroxide, A4454 tape for drape in dispute 12/09/03.

DECISION

Deny 95869, 95900 and 95903, 95831 and 95851.

Approve all other services.

RATIONALE/BASIS FOR DECISION

Medical necessity for EMG service of the lumbar spine and related extremities as well as related supplies and materials does appear reasonable and appropriate given recommendations of treating chiropractors, orthopedist and osteopath. The 99244 and 99385 consultation and E/M services also appear reasonable. However, EMG of the thoracic spine (95869), NCV studies (95900 and 95903), muscle testing (95831) and ROM studies (95851) do not appear supported as medically necessary by available documentation.

AAEM Guidelines in Electrodiagnostic Medicine, Muscle and Nerve, February 1992.

Kimura, J; Electrodiagnosis in Diseases of Muscle and Nerve, 3rd Ed., Oxford Press, 2001.

The observations and impressions noted regarding this case are strictly the opinions of this evaluator. This evaluation has been conducted only on the basis of the medical/chiropractic documentation provided. It is assumed that this data is true, correct, and is the most recent documentation available to the IRO at the time of request. If more information becomes available at a later date, an additional service/report or reconsideration may be requested. Such information may or may not change the opinions rendered in this review. This review and its findings are based solely on submitted materials.

No clinical assessment or physical examination has been made by this office or this physician advisor concerning the above-mentioned individual. These opinions rendered do not constitute per se a recommendation for specific claims or administrative functions to be made or enforced.