

THIS DECISION HAS BEEN APPEALED. THE FOLLOWING  
IS THE RELATED SOAH DECISION NUMBER: 453-05-9681.M5

**MEDICAL DISPUTE RESOLUTION FINDINGS AND DECISION**

**PART I: GENERAL INFORMATION**

|  |  |
|--|--|
| <b>Type of Requestor:</b> (X) HCP ( ) IE ( ) IC  | <b>Response Timely Filed?</b> (X) Yes ( ) No |
| Requestor's Name and Address<br><br>Mark C Sherrod DC PA<br>5406 Winners Circle<br>Amarillo TX 79110 | MDR Tracking No.: M5-05-2273-01              |
|  | TWCC No.:                                    |
|  | Injured Employee's Name:                     |
| Respondent's Name and Address    Rep Box # 54<br><br>Texas Mutual Ins                                | Date of Injury:                              |
|  | Employer's Name:                             |
|  | Insurance Carrier's No.:                     |

**PART II: SUMMARY OF DISPUTE AND FINDINGS**

| Dates of Service |         | CPT Code(s) or Description | Did Requestor Prevail?  |
|------------------|---------|----------------------------|---|
| From             | To      |                            |   |
| 4-21-04          | 6-22-04 | 98941, G0283, 97035        | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
|                  |         |                            | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

**PART III: MEDICAL DISPUTE RESOLUTION REVIEW SUMMARY, METHODOLOGY, AND/OR EXPLANATION**

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code and Commission Rule 133.308 (relating to Medical Dispute Resolution by Independent Review Organization), the Medical Review Division assigned an Independent Review Organization (IRO) to conduct a review of the medical necessity issues between the requestor and respondent.

The disputed date of service 4-19-04 is untimely and ineligible for review per TWCC Rule 133.308(e)(1) which states that a request for medical dispute resolution shall be considered timely if it is received by the Commission no later than one year after the dates of service in dispute.

The Division has reviewed the enclosed IRO decision and determined that the requestor did **not** prevail on the disputed medical necessity issues.

**PART IV: COMMISSION DECISION**

Based upon the review of the disputed healthcare services, the Medical Review Division has determined that the requestor is not entitled to reimbursement for the services involved in this dispute and is not entitled to a refund of the paid IRO fee.

**Findings and Decision by:**

|                      |            |                 |
|----------------------|------------|-----------------|
| Authorized Signature | Typed Name | 8-23-05<br>Date |
|----------------------|------------|-----------------|

## **PART V: INSURANCE CARRIER DELIVERY CERTIFICATION**

I hereby verify that I received a copy of this Decision in the Austin Representative's box.

Signature of Insurance Carrier: \_\_\_\_\_ Date: \_\_\_\_\_

## **PART VI: YOUR RIGHT TO REQUEST A HEARING**

### **YOUR RIGHT TO REQUEST A HEARING**

If you are unhappy with all or part of this decision, you have the right to appeal the decision. Those who wish to appeal decisions that were issued during the month of August 2005, should be aware of changes to the appeals process, which take effect September 1, 2005.

House Bill 7, recently enacted by the 79th Texas Legislature, provides that an appeal of a medical dispute resolution order that is not pending for a hearing at the State Office of Administrative Hearings (SOAH) on or before August 31, 2005 is not entitled to a SOAH hearing. This means that the usual 20-day window to appeal to SOAH, found in Commission Rule 148.3, will be shortened for some parties during this transition phase. If you wish to seek an appeal of this medical dispute resolution order to SOAH, you are encouraged to have your request for a hearing to the Commission as early as possible to allow sufficient time for the Commission to submit your request to SOAH for docketing. A request for a SOAH hearing should be sent to: Chief Clerk of Proceedings/Appeals Clerk, P.O. Box 17787, Austin, Texas 78744 or faxed to 512-804-4011. A copy of this Decision should be attached to the request.

Beginning September 1, 2005, appeals of medical dispute resolution orders are procedurally made directly to a district court in Travis County (see Texas Labor Code, Sec. 413.031(k), as amended and effective Sept. 1, 2005). An appeal to District Court must be filed not later than 30 days after the date on which the decision that is the subject of the appeal is final and appealable.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**

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

|                              |                      |
|------------------------------|----------------------|
| <b>Date:</b>                 | <b>08/22/2005</b>    |
| <b>Injured Employee:</b>     |                      |
| <b>MDR #:</b>                | <b>M5-05-2273-01</b> |
| <b>TWCC #:</b>               |                      |
| <b>MCMC Certification #:</b> | <b>IRO 5294</b>      |

**REQUESTED SERVICES:**

Please review:

98941 Chiropractic manipulative treatment (CMT); spinal - 3 to 4 regions,  
G0283 Electrical stimulation,  
97035 ultrasound.

Dates of service in dispute: 04/21/2004-06/22/2004.

**DECISION: Upheld**

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IRO MCMC llc (MCMC) has been certified by the Texas Department of Insurance as an Independent Review Organization (IRO) to render a recommendation regarding the medical necessity of the above disputed service.

Please be advised that a MCMC Physician Advisor has determined that your request for an M5 Retrospective Medical Dispute Resolution on 08/22/2005, concerning the medical necessity of the above referenced requested service, hereby finds the following:

Uphold the denial of the items in dispute for the dates of service 04/21/2004-06/22/2004.

**CLINICAL HISTORY:**

Records indicate that the above captioned injured individual was injured as the result of a work related injury that allegedly occurred on \_\_\_\_\_. The history reveals that the above captioned injured individual sustained injuries to the foot, shoulder, neck, low back and mid back. Chiropractic treatment was initiated on the date of injury and has continued since that time. A surgery was performed to the foot. A complicating factor of spondylosis is noted. Care has been on an as needed basis under the administration of the current chiropract. provider.

**RATIONALE:**

The above captioned injured individual was injured on \_\_\_\_\_ and has been under the care and administration of the current attending physician (AP) since that date. It could not be reasonably expected, upon review of the information contained in the supplied documentation, that ongoing treatment would be necessary some 7 years post injury. The AP predicates the necessity of ongoing treatment on exacerbations and two withdrawals from care. However, there is no information within the documentation to demonstrate the injured individual's response to the withdrawals. Furthermore, there are no significant comparative objective examination findings outside of an exam dated 06/19/2004 to ascertain if progress was being achieved and if there could be a reasonable expectation of additional therapeutic relief. Lastly, the surgeon, who is

apparently the physician on record, recommended follow-up manipulative care under the administration of the AP specifically for the period flare-ups of the condition of spondylosis. It was his opinion that there would be no need for follow-up care for other ongoing conditions. The spondylosis likely predated and pre-existed the \_\_\_ injury and therefore a causal relationship between this condition and the injury of \_\_\_ is not established within the supplied documentation.

**RECORDS REVIEWED:**

- TWCC Notification of IRO Assignment dated 06/13/05
- TWCC MR-117
- TWCC-60
- TWCC-69
- MCMC llc: IRO Acknowledgement and Invoice Notification Letter dated 06/13/05
- Alternate TWCC-62: Explanation of Benefits dated 08/19/04
- Dr. Mark Sherrod, LP: S.O.A.P. Notes dated 06/22/04, 06/17/04, 06/16/04, 06/15/04, 05/14/04, 04/21/04, 04/19/04
- Alternate TWCC-62: Explanation of Benefits dated 05/18/04
- TWCC Health Insurance Claim Forms for services incurred 04/08/04 through 06/22/04
- Mark Sciolo, MD: Encounter Note dated 08/28/03
- Dr. Mark Sherrod, LP: undated letter

The reviewing provider is a Licensed/Boarded Chiropractor and certifies that no known conflict of interest exists between the reviewing Chiropractor 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**

**August day of 22<sup>nd</sup> 2005.**

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

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