

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

**SOAH DOCKET NO: 453-04-0137.M5**

MDR Tracking Number: M5-03-0476-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective January 1, 2002 and Commission Rule 133.305 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.

The IRO reviewed chiropractic treatment and diagnostic studies rendered from 1-21-02 to 6-11-02 that were denied based upon "U" or "V".

The Medical Review Division has reviewed the IRO decision. The IRO has not clearly determined the prevailing party over the medical necessity issues. Therefore, in accordance with §133.308(q)(2)(C), the commission shall determine the allowable fees for the health care in dispute, and the party who prevailed as to the majority of the fees for the disputed health care is the prevailing party.

<b>DOS</b>	<b>CPT CODE</b>	<b>Billed</b>	<b>Paid</b>	<b>EOB Denial Code</b>	<b>MAR\$ (Maximum Allowable Reimbursement)</b>	<b>Reference</b>	<b>Rationale</b>
2-4-02 2-6-02 2-8-02 2-11-02 2-13-02 2-15-02 2-18-02 2-20-02 2-22-02 2-25-02 2-26-02 2-27-02 3-4-02 3-6-02 3-7-02	97110	\$140.00	\$0.00	U	\$35.00 / 15 min	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of 15 X \$140.00 = \$2100.00 is recommended.
6-11-02	99214	\$71.00	\$0.00	U	\$71.00	Section 408.021(a)	IRO concluded this services was medically necessary; therefore reimbursement of \$71.00 is recommended.
2-13-02 2-15-02 2-20-02 2-22-02 2-26-02 2-27-02 3-4-02 3-6-02 3-7-02	99211	\$18.00	\$0.00	U	\$18.00	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of 9 X \$18.00 = \$162.00 is recommended.
2-14-02 4-19-02	97750FC	\$200.00	\$0.00	U	\$100.00 / hr	Section 408.021(a)	IRO concluded these services were medically necessary; therefore reimbursement of 2 dates X \$200.00 = \$400.00 is recommended

TOTAL			The requestor is entitled to reimbursement of <b>\$2733.00.</b>
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The IRO concluded that the therapeutic procedures, office visits and functional capacity evaluation provided from 1-26-02 through 3-12-02 and 4-19-02 through 6-11-02 were medically necessary. The MRI, aquatic therapy, and special report from 1-26-02 through 3-12-02 and 4-19-02 through 6-11-02 were not medically necessary.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

The commission has determined that **the requestor did not prevail** on the majority of the medical fees (\$2733.00). Consequently, the requestor is not owed a refund of the paid IRO fee.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On April 30, 2003, 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.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
1-21-02	97113	\$208.00	\$0.00	No EOB	\$52.00 / 15 min	CPT code Description Rule 133.307(g)(3)	Documentation to supports billed service was not submitted. Reimbursement is not recommended.
1-21-02	99211	\$18.00	\$0.00	No EOB	\$18.00		
4-9-02 4-10-02 4-12-02	97546 WH	\$307.20	\$0.00	A	\$51.20 / hr. Non CARF Accredited	Rule 134.600	Provider contends that preauthorization approval was obtained; however, the records did not contain preauthorization approval report. Therefore, reimbursement is not recommended.
4-11-02	97546 WH	\$281.60	\$0.00	A	\$51.20 / hr. Non CARF Accredited		
4-9-02 4-10-02 4-11-02 4-12-02	97545WH	\$102.40	\$0.00	A	\$51.20 / hr. Non CARF Accredited		
TOTAL							The requestor is not entitled to reimbursement.

This Decision is hereby issued this 6th day of August 2003.

Elizabeth Pickle  
 Medical Dispute Resolution Officer  
 Medical Review Division

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 the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) 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 1-21-02 through 6-11-02 in this dispute.

This Order is hereby issued this 6th day of August 2003.

Roy Lewis  
Medical Dispute Resolution Supervisor  
Medical Review Division

NOTICE OF INDEPENDENT REVIEW DECISION

**AMENDED LETTER**  
**NOTE: Requested Service Dates**

March 20, 2003

Rosalinda Lopez  
Program Administrator  
Medical Review Division  
Texas Workers Compensation Commission  
4000 South IH-35, MS 48  
Austin, TX 78704-7491

RE: MDR Tracking #: M5-03-0476-01  
IRO Certificate #: IRO 4326

The \_\_\_ 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 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 care. \_\_\_ 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 \_\_\_ 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 34 year old female sustained a work-related injury on \_\_\_ when she was a passenger in a company truck that was involved in a motor vehicle accident and hit her head and neck. The patient was initially treated in the emergency department and released following x-rays and sutures to a head wound. The patient was first evaluated by the chiropractor on 11/21/01 for complaints of neck pain, chest pain, back pain, shoulder pain, pain in the top of her head, and pain in the back of her elbow. Since the accident, the patient has begun to experience anxiety, nervousness, tension, and headaches. On 01/26/02, the patient underwent MRIs of the lumbar spine, dorsal spine, and cervical spine. The lumbar and dorsal spine MRIs were within normal limits and the cervical MRI revealed a C5-6 central disc protrusion by approximately 3mm causing effacement of the thecal sac and direct contact with ventral aspect and spinal cord. From 01/26/02 through 03/12/02 and 04/19/02 through 06/11/02, the patient received MRIs, therapeutic procedure, aquatic therapy, office visits, special report, and functional capacity evaluation.

Requested Service(s)

MRIs, therapeutic procedure, aquatic therapy, office visits, special report, and functional capacity evaluation provided from 01/26/02 through 03/12/02 and 04/19/02 through 06/11/02.

## Decision

It is determined that the therapeutic procedures, office visits and functional capacity evaluation provided from 01/26/02 through 03/12/02 and 04/19/02 through 06/11/02 were medically necessary to treat this patient's condition.

It is determined that the MRIs, aquatic therapy, and special report from 01/26/02 through 03/12/02 and 04/19/02 through 06/11/02 were not medically necessary to treat this patient's condition?

## Rationale/Basis for Decision

From the interim evaluation of 01/10/02, the patient's sensations, deep tendon reflexes, and muscle testing were all normal in the cervical, thoracic, and lumbar spine. In addition, the patient responded in pain level, spasms, and ranges of motion as found on the initial examination on 11/02/01. There was no medical necessity for performing the MRIs of the cervical, thoracic, and lumbar spine on 01/26/02 due to the lack of objective evidence of possible disk protrusion on x-ray and the decrease in subjective symptoms the patient reported since beginning treatment.

The aquatic therapy was not medically necessary due to the fact that land based exercises were being performed at the same time. The patient began performing the land-based exercises in the gym and she proved that she could handle those exercises and did not need the aquatic therapy any longer. Thus, having the ability to handle the land-based exercises makes the aquatic therapy not medically necessary. However, the therapeutic procedures were medically necessary due to the patient still having some decreased range of motion and pain in the cervical, thoracic, and lumbar spine.

The office visit of 06/11/02 was medically necessary as a follow up in order to maintain the patient's pain level and symptoms at a reasonable level.

The functional capacity evaluations performed on 02/14/02 and 04/19/02 were medically necessary as a diagnostic tool to assess the progress of the patient through a treatment program and to determine functional status for evaluation of a return to work.

The special report of 03/12/02 was not found in the medical record documentation. There is no indication of the necessity for such a report.

Therefore, the therapeutic procedures, office visits and functional capacity evaluation provided from 01/26/02 through 03/12/02 and 04/19/02 through 06/11/02 were medically necessary while the MRIs, aquatic therapy, and special report from 01/26/02 through 03/12/02 and 04/19/02 through 06/11/02 were not medically necessary.

Sincerely,