

MDR Tracking Number: M5-03-0597-01

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 rendered from 11-30-01 to 4-18-02 that was denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. Consequently, the requestor is not owed a refund of the paid IRO fee.

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.

On February 20, 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:

Services that were denied without an EOB will be reviewed in accordance with *Medical Fee Guideline*.

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$ (Maximum Allowable Reimbursement)	Reference	Rationale
3-4-02 3-18-02 3-25-02 4-18-02	97139PH	\$35.00	\$0.00	F	DOP	Medicine GR (I)(C)(1)(r)	SOAP note supports billed service, reimbursement of 4 dates X \$35.00 = \$140.00 is recommended.
3-27-02 3-28-02 4-8-02 4-15-02 4-17-02	97139SS	\$35.00	\$0.00	F	DOP	Medicine GR (I)(C)(1)(m)	SOAP note supports billed service, reimbursement of 5 dates X \$35.00 = \$175.00 is recommended.
4-2-02	97139PH	\$35.00	\$0.00	No EOB	DOP	Medicine GR (I)(C)(1)(r)	SOAP note supports billed service, reimbursement of \$35.00 is recommended.
4-3-02	97139SS	\$35.00	\$0.00	No	DOP	Medicine	SOAP note supports billed

4-4-02				EOB		GR (I)(C)(1)(m)	service, reimbursement of 2 dates X \$35.00 = \$70.00 is recommended.
TOTAL		\$420.00					The requestor is entitled to reimbursement of <b>\$420.00</b>

**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 \$420.00 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 11-30-01 through 4-18-02 in this dispute.

This Decision and Order is hereby issued this 22<sup>nd</sup> day of August 2003.

Elizabeth Pickle  
 Medical Dispute Resolution Officer  
 Medical Review Division

April 30, 2003

Re: MDR #: M5-03-0597-01

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is Certified in Chiropractic Medicine.

Clinical History:

This 33-year-old male claimant experienced a work-related injury on \_\_\_\_\_. He experienced a pop in the mid-back and injured his right shoulder. Neurodiagnostics on 12/01/01, including an SSEP and NCV, are suggestive of an L-5 bilateral and S-1 right nerve root impairment over the lower quarter. Neurodiagnostics on 03/07/01, including an NCV of the upper quarter, reveal a C-7 sensory radiculopathy, mild, on the right, and a mononeuropathy, multiplex, moderate, of the left median and mild of the right ulnar nerves. MR imaging of the right shoulder on 01/25/01 shows a small tear of the supraspinatus tendon. MR imaging on 03/11/02 of the lumbar spine reveals disc desiccation at T-12 through L-1 with minimal posterior bulging. Cervical spin MR imaging on 03/11/02 shows minimal posterior annular bulging at C3-C4, C4-C5 and C5-C6, without significant spinal stenosis. As of 01/16/01, it was reported that the patient had a variety of therapeutic applications that included therapy, work hardening, trigger point injections and medication.

Disputed Services:

During the period of 11/30/01 through 04/17/02:

- somatosensory testing
- office visits
- therapeutic procedures
- phonophoresis/supplies
- aquatic therapy
- physical treatments
- ultrasound
- biofeedback monitoring & training

Decision:

The reviewer agrees with the determination of the insurance carrier. The reviewer is of the opinion that the testing, procedures, supplies, and treatments as outlined above were not medically necessary in this case.

Rationale for Decision:

The provider's utilization of passive therapies following return-to-work applications, like work hardening, is not common practice. It is customary to move toward a more active, patient-driven application if work hardening therapies fail, not the reverse. A psychosocial baseline is normally established so that the patient can qualify for chronic pain management therapeutics. This does not appear evident from the reviewed medical record.

Aquatic applications are usually employed if a patient has a failure in land-based protocols, and usually reserved for the post-operative patient, as a means of gaining muscle strength/endurance in variable mediums that allow progressive loading of post-surgical structures. It is not common practice to implement as aquatic program after an active patient-driven work hardening program.

Never conduction velocity and somatosensory testing are not clinically recognized as a reliable and valid method of diagnosing musculoskeletal conditions. It is unclear from the records provided why the provider chose an NCV and SSEP as opposed to a needle EMG. Needle EMG is a more reliable and definitive neurodiagnostic tool. The provider has shown no psychosocial baseline of function that would warrant a trial of biofeedback monitoring/training.

The aforementioned information has been taken from the following references:

- *Unremitting Low Back Pain, North American Spine Society Phase III Clinical Guidelines for Multi-Disciplinary Spine Care Specialists.* North American Spine Society; 2000, 96 p.

- *Clinical Practice Guidelines for Chronic Non-Malignant Pain Syndrome Patients II: An Evidence-Based Approach.* J. Back Musculoskeletal Rehabil., 1999, Jan 1, 13: 47-58
- Charness, A.L. *Waterworks: Aquatic Environment Enhances Therapy for Rheumatic Conditions.* Biomechanics, August 1997, pp. 77-80.

I am the Secretary and General Counsel of \_\_\_ 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.

Sincerely,