

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

SOAH DOCKET NO. 453-04-4214.M5

MDR Tracking Number: M5-03-0945-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General 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 12-10-02.

The IRO reviewed electrical stimulation, massage therapy, aquatic therapy, therapeutic exercises, and phonophoresis/supplies rendered from 01-02-02 through 03-04-02 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity electrical stimulation, massage therapy, aquatic therapy, therapeutic exercises, and phonophoresis/supplies. 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.

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.

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

On June 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 |
|----------|--------------------|----------|---------------------|-----------------|---|-----------|--|
| 12-21-01 | 97113 (4 units) | \$208.00 | \$52.00 (1 unit) | T | \$156.00 | | Carrier denied as "T-outside of treatment" |

| | | | | | | | |
|----------|--------------------|----------|--------------------------|---|----------|--|---|
| | | | paid) | | | | guidelines.” The treatment guidelines were abolished statute effective 01-01-02; therefore, this review will be per the MFG. Office note dated 12-21-01 supports service rendered. Recommended reimbursement of \$156.00 |
| 12-24-01 | 97113 (4 units) | \$208.00 | \$52.00 (1 unit paid) | T | \$156.00 | | Carrier denied as “T-outside of treatment guidelines.” The treatment guidelines were abolished by statute effective 01-01-02; therefore, this review will be per the MFG. Office note dated 12-21-01 supports service rendered. Recommended reimbursement of \$156.00 |
| 12-28-01 | 97113 (4 units) | \$208.00 | \$52.00 (1 unit paid) | T | \$156.00 | | Carrier denied as “T-outside of treatment guidelines.” The treatment guidelines were abolished statute effective 01-01-02; therefore, this review will be per the MFG. Office note dated 12-21-01 supports service rendered. Recommended reimbursement of \$156.00 |
| TOTAL | | \$624.00 | | | | | The requestor is entitled to reimbursement of \$ 468.00 |

This Decision is hereby issued this 30th day of January 2004.

Georgina Rodriguez
Medical Dispute Resolution Officer
Medical Review Division

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 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 12-21-01 through 03-04-02 in this dispute.

This Order is hereby issued this 30th day of January 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

January 27, 2004

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

Re: MDR #: M5-03-0945-01
IRO Certificate No.: IRO 5055

REVISED DECISION
Corrected dates of service in dispute.

___ 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 female claimant was working when she was involved in an accident on ____. At the time of the accident, sharp pain was reported over the low back region, with radiation into the right lower quarter. Over-the-counter (OTC) medication was initially utilized to treat the complaints, but her pain progressively worsened.

On 11/26/01, conservative chiropractic care was initiated that included joint mobilization, massage therapy, and electrical muscle stimulation. The reviewed medical record shows that aquatic therapy was initiated on or about 12/21/01.

Neurodiagnostic testing that included a somatosensory evoked potential (SSEP) and a nerve conduction velocity (NCV) suggested an S-1 nerve root anomaly; further correlation was clinically warranted. MR imaging of the lumbar spine on 01/09/02 revealed a 2 mm L4-5 central disc protrusion with minimal narrowing of the thecal sac. The patient was referred to a medical doctor on 02/20/02, and a course of pain management was recommended.

Disputed Services:

Electrical stimulation (97032), massage therapy (97124), and codes 99070-PH, 97139-PH, aquatic therapy, therapeutic exercises, and phonophoresis/supplies during the period of 01/02/02 through 03/04/02.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the services and treatments in dispute were medically necessary in this case.

Rationale:

It is evidence from the medical record that this patient did sustain an injury to the low back region. The mechanism of injury supports possible disc injury. The records support the need to get the patient active, and, depending on her physical condition, a time-limited course of aquatic therapy is appropriate. In addition, a time-limited course of passive therapeutics is appropriate in the management of her injury. The patient does have an MRI of the lumbar spine that reveals possible disc involvement in her current pain complex. This patient's injury is in compliance with accepted practice algorithms for treating lumbar spine injury.

The aforementioned information has been taken from the following guidelines and peer-reviewed references:

-
- *-Herniated Disc, North American Spine Society, Phase III Clinical Guidelines for Multi-Disciplinary Spine Care Specialists.* North American Spine Society; 2000.
- *-Smith, D., McMurray, N., Disler, P. Early Intervention for Acute Back Injury: Can We Finally Develop and Evidence-Based Approach?* Clin. Rehabil. 2002 Feb., 16(1): 1-1.

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.