

MDR Tracking Number: M5-03-1012-01

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 requestor submitted a medical dispute resolution request on 12/12/02 and was received in the Medical Dispute Resolution on 12/13/03. The disputed date of service 12/12/01 is not within the one year jurisdiction in accordance with Rule 133.308(e)(1) and will be excluded from this Finding and Decision.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(q)(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 the only issue** to be resolved. The office visits, analysis of data, application of surface neurostimulator prior to 3/27/02, required reports, physical therapy sessions were found to be medically necessary. The neurostimulator and related transportation made necessary after 3/27/02 were not found to be medically necessary. The respondent raised no other reasons for denying reimbursement for these office visits, analysis of data, application of surface neurostimulator prior to 3/27/02, required reports, physical therapy sessions charges.

This Finding and Decision is hereby issued this 10<sup>th</sup> day of July 2003.

Carol R. Lawrence  
Medical Dispute Resolution Officer  
Medical Review Division

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 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 Order is applicable to dates of service 12/13/01 through 7/18/02 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 10<sup>th</sup> day of July 2003.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

RL/crl

**IRO Certificate #4599**

**NOTICE OF INDEPENDENT REVIEW DECISION**

July 3, 2003

**Re: IRO Case # M5-03-1012**

Texas Worker's Compensation Commission:

\_\_\_ has been certified as an independent review organization (IRO) and has been authorized to perform independent reviews of medical necessity for the Texas Worker's Compensation Commission (TWCC). Texas HB. 2600, Rule133.308 effective January 1, 2002, allows a claimant or provider who has received an adverse medical necessity determination from a carrier's internal process, to request an independent review by an IRO.

In accordance with the requirement that TWCC assign cases to certified IROs, TWCC assigned this case to \_\_\_ for an independent review. \_\_\_ has performed an independent review of the proposed care to determine if the adverse determination was appropriate. For that purpose, \_\_\_ received relevant medical records, any documents obtained from parties in making the adverse determination, and any other documents and/or written information submitted in support of the appeal.

The case was reviewed by a physician who is Board Certified in Neurological Surgery. He or she has signed a certification statement attesting 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 referral to \_\_\_ for independent review. In addition, the certification statement further attests that the review was performed without bias for or against the carrier, medical provider, or any other party to this case.

The determination of the \_\_\_ reviewer who reviewed this case, based on the medical records provided, is as follows:

### History

The patient is a 33-year-old male who on \_\_\_ slipped and fell on the fender of a forklift and developed back pain. X-rays showed an L2 compression fracture at the superior end plate. The patient was given medication and a back brace and was taken off work. He did not improve and changed treating doctors. X-rays of the pelvis and thoracic spine were normal. Electrical stimulation and other physical therapy measures were pursued without benefit. An MRI of the lumbar spine in June 2001 showed the compression fracture at L2, and also a central disk herniation at L3-4. An MRI of the thoracic spine showed small bulges only without any surgical problem. The patient continued to have multiple treatments including whirlpool, traction, heat, cold, and manipulation without benefit. On 3/27/02 a surgical procedure was performed including lumbar laminectomy with L3-4 bilateral foraminotomies, but without disk removal.

### Requested Service(s)

Analysis of info stored, application of surface neurostimulator, required reports, physical therapy sessions including electrical stimulation, office visits, unusual travel, medical conference 12/13/01 – 7/18/02.

### Decision

I agree with the carrier's decision to deny the requested electrical stimulation and related transportation and ice made necessary because of electrical stimulation, after 3/27/02, the date of surgery.

I disagree with the carrier's decision to deny the other requested treatment and transportation.

### Rationale

Use of a neurostimulator to relieve pain prior to surgery is justified. The patient obtained significant relief from each of those treatment sessions. After surgery, a period of time should be given to determine the results of surgery before initiating therapy such as electrical stimulation that assumes the lack of surgical success.

Interpretation of previous records including x-rays is helpful in treating patients. I do not charge for review of records, but there is apparently a code for it and the review is necessary.

According to the records presented for this review, the patient lives a significant distance from his place of treatment. Therefore travel expense is justified.

The other therapy provided was reasonable and which provided symptomatic relief and assisted in the patient's rehabilitation.

This medical necessity decision by an Independent Review Organization is deemed to be a Commission decision and order.

Sincerely,