

MDR Tracking Number: M5-03-1257-01

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 1-23-03.

The IRO reviewed electric stimulation, whirlpool therapy, mechanical traction, physician conference, application of a neurostimulator, special reports, office visits, unusual physician travel and a functional capacity evaluation rendered from 4-15-02 to 10-4-02 that were denied based upon "V" and "U".

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.

The IRO concluded that electrical stimulation; physician conference and unusual physician travel were not medically necessary. The IRO concluded that the remaining issues were medically necessary.

Consequently, the commission has determined that **the requestor prevailed** on the majority of the medical fees. 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.

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 April 4, 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	MARS (Maximum Allowable Reimbursement)	Reference	Rationale
1-23-02 1-23-02 1-25-02 1-30-02 2-1-02 2-4-02 2-8-02 2-11-02 2-15-02 2-18-02 2-18-02 2-22-02 3-1-02 3-4-02 3-25-02 3-26-02 3-29-02 4-4-02 4-5-02 5-10-02 8-9-02	64550	\$101.00	\$0.00	N, F	\$101.00	CPT code descriptor	SOAP note does not document procedure per MFG; therefore, reimbursement is not recommended.
1-28-02	97022 (X2)	\$20.00	\$0.00	D	\$20.00	CPT Code Descriptor	This code is not a timed procedure and is reimbursed by application of one or more areas. On this date, the requestor was reimbursed appropriately for one of the 97022s.
3-29-02	99090	\$108.00	\$0.00	F	\$108.00	CPT Code Descriptor	Report to support billed service was not submitted; therefore, no reimbursement is recommended.
3-11-02 3-15-02	64550	\$101.00	\$0.00	A, F	\$101.00	CPT code descriptor Rule 134.600	Application of neurostimulator is not a service identified on Rule 134.600; therefore, the insurance carrier incorrectly denied service with "A". SOAP note does not document procedure per MFG; therefore, reimbursement is not recommended.

7-22-02	99213 MP	\$48.00	\$38.40	C	\$48.00	Medicine GR (I)(B)(1)(b)	SOAP notes to supports service was not submitted; therefore, additional reimbursement is not recommended.
5-6-02	99080	\$15.00	\$0.00	N	\$15.00	Rule 129.5(d)	A TWCC-73 report was not submitted. Therefore, reimbursement is not recommended.
TOTAL							The requestor is not entitled to reimbursement.

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 1-23-02 through 10-4-02 in this dispute.

This Decision is hereby issued this 28th day of October 2003.

Roy Lewis
Medical Dispute Resolution Supervisor
Medical Review Division

April 1, 2003

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IRO #: 5251

___ has been certified by the Texas Department of Insurance as an Independent Review Organization. The Texas Worker's Compensation Commission has assigned this 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 care rendered to determine if the adverse determination was appropriate. In performing this review, all relevant medical records and documentation utilized to make the adverse determination, along with any documentation and written information submitted, was reviewed.

This case was reviewed by a licensed Doctor of Chiropractic. The ___ health care professional has signed a certification statement stating that no known conflicts of interest exist between the reviewer and any of the treating doctors or providers or any of the doctors 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 the dispute.

CLINICAL HISTORY

This patient was originally injured in ___ when he was carrying an appliance as part of his job. He had what was described as emergency surgery on the lumbar spine and received active and passive therapy at ___. Even though he was assessed an impairment rating of 19% and released from care, he continued to have low back pain and mechanical difficulty which eventually led to a fusion of the lumbar spine from L4 to S1. The treating doctor was limited in his treatment options and was unable to get the patient relief in a work hardening program. The patient was prescribed a chronic pain program, which was denied by the carrier. The treating doctor initiated active and passive treatments over a period of several months to attempt to return this patient to some meaningful form of functional ability.

Several peer reviews were performed on this case. However, the carrier's most recent seems to be from ___. This report was performed on May 29, 2002. He recommended no further care and called into question the neurostimulator used in this patient's treatment plan. ___ believed that the treatment was not within the scope of the chiropractor. A letter was presented by the ___, which does indicate that it is within the scope. The carrier later changed its EOB and determined medical necessity was an issue.

DISPUTED SERVICES

The carrier has denied the medical necessity of electrical stimulation, whirlpool therapy, mechanical traction, physician conference, application of a neurostimulator, special reports, office visits, unusual physician travel and a functional capacity evaluation as medically unnecessary with and without peer review from April 15, 2002 through October 4, 2002.

DECISION

The reviewer agrees with the prior adverse determination regarding electrical stimulation, physician conference and unusual physician travel.

The reviewer disagrees with the prior adverse determination of the remaining issues.

BASIS FOR THE DECISION

The manual electrical stimulation would not be considered a reasonable treatment, especially considering the neurostimulation that was being rendered. Documentation is insufficient to accept the necessity of a physician conference fee or unusual travel by a doctor. The notes do indicate that the patient responded well to the whirlpool, mechanical traction and neurostimulation. The treating doctor did document a reasonable progress following a very serious series of procedures on this patient, including a lumbar global fusion. The carrier's reviewer apparently failed to consider that the patient's rehabilitation period from the 2nd surgery was no longer a matter of three to six months, but was complicated by the extensive surgery and the fact that it was a second surgery. Within the parameters of good clinical practice, I feel that the treating doctor was justified in his attempts to improve the patient's condition and that the progress, minimal as it is at times, was considered reasonable for this patient's history.

___ has performed an independent review solely to determine the medical necessity of the health services that are the subject of the review. ___ has made no determinations regarding benefits available under the injured employee's policy.

As an officer of ____, I certify that there is no known conflict between the reviewer, ____ and/or any officer/employee of the IRO with any person or entity that is a party to the dispute.

____ is forwarding by mail and, in the case of time sensitive matters by facsimile, a copy of this finding to the treating doctor, payor and/or URA, patient and the TWCC.

Sincerely,