

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

SOAH DOCKET NO: 453-03-3875.M5

MDR Tracking Number: M5-03-1875-01

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, 2003 and Commission Rule 133.305 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division (Division) assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent.

The Division has reviewed the enclosed IRO decision and determined that **the requestor did not prevail** on the issues of medical necessity. The IRO agrees with the previous determination that electrical stimulation, therapeutic procedure and activities, evaluations, hot or cold packs, ultrasound and gait training were not medically necessary. Therefore, the requestor is not entitled to reimbursement of the IRO fee.

Based on review of the disputed issues within the request, the Division has determined that electrical stimulation, therapeutic procedure and activities, evaluations, hot or cold packs, ultrasound and gait training fees were the only fees involved in the medical dispute to be resolved. As the treatment was not found to be medically necessary, reimbursement for dates of service from 6/19/02 to 9/17/02 is denied and the Division declines to issue an Order in this dispute.

This Decision is hereby issued this 22nd day of May 2003.

Noel L. Beavers
Medical Dispute Resolution Officer
Medical Review Division
NLB/nlb

May 21, 2003

David Martinez
TWCC Medical Dispute Resolution
4000 IH 35 South, MS 48
Austin, TX 78704

MDR Tracking #: M5-03-1875-01
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.

The independent review was performed by a matched peer with the treating doctor. This case was reviewed by a licensed Medical Doctor with a specialty and board certification in Physical Medicine and Rehabilitation. 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

___ sustained a back injury on ___ and underwent “significant conservative care” and two back surgeries in 2000 and 2001. He sustained another back injury ___ weeks after his second surgery. ___ has continued to have severe low back pain radiating into both legs. ___ evaluated this patient on 5/2/02 and referred him for physical therapy that consisted of hot packs, ultrasound, electrical stimulation and therapeutic exercises (15–30 minutes, one to three times per week) from 6/19/02 through 9/24/02. Follow-up notes thereafter through 3/20/03 indicate that this patient did not show any significant functional improvement and his subjective pain was no better.

DISPUTED SERVICES

Under dispute is the medical necessity of electrical stimulation, therapeutic procedures and activities, a 16-30 minute evaluation, hot or cold packs, ultrasound, and gait training provided from 6/19/02 through 9/17/02.

DECISION

The reviewer agrees with the prior adverse determination.

BASIS FOR THE DECISION

By 5/5/02, it appeared that this patient had a well-established chronic pain disorder following two failed back surgeries. He had been provided more than adequate conventional physical therapy. He certainly would not have been expected to benefit from additional passive modalities such as hot packs (that could have been self-

administered at home), ultrasound, or electrical stimulation provided sporadically at a physical therapy clinic. Such modalities have been shown to have long-term efficacy no greater than a placebo (1).

The potential benefit of additional therapeutic exercise more than three years after the injury and following extensive previous therapeutic exercise before and after the initial spinal surgery was most doubtful. A physical conditioning program integrated into a comprehensive multidisciplinary pain treatment program may have been appropriate if the patient had previously been offered the opportunity to participate in one. However, the course of physical therapy provided for three months in 2002 that consisted of back exercises and general aerobic conditioning could not have been justified as likely to make a significant difference in the patient's functional performance. It certainly did not prove to be worthwhile, based upon the subsequent medical examination.

In conclusion, the physical therapy provided from June 2002 through September 2002 does not appear reasonable, appropriate or medically necessary for the treatment of this patient's injury.

___ 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 this finding by US Postal Service to the TWCC.

Sincerely,

Reference:

(1) Feine JS, Lund JP. An assessment of the efficacy of physical therapy and physical modalities for the control of chronic musculoskeletal pain. Pain 1997; 71:5-23.