

MDR Tracking Number: M5-03-1939-01

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 03-31-03

The IRO reviewed joint mobilization, myofascial release, manual traction, range of motion measurements, therapeutic exercises, office visits with manipulations, work conditioning muscle testing, and neuromuscular stimulator (E0745) rendered from 07-10-02 through 10-17-02 that were 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 for joint mobilization.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor prevailed** on the issues of medical necessity for myofascial release, manual traction, range of motion measurements, therapeutic exercises, office visits with manipulations, work conditioning muscle testing, and neuromuscular stimulator (E0745). 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 \$650.00** 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 24, 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
06-19-02	97265	\$43.00	0.00	F	\$43.00	MFG MGR (I)(C) (3)	Soap notes support delivery of service. Recommended Reimbursement \$43.00
07-11-02	97139TN	\$85.00	0.00	U	DOP	Rule 134.60 0 (h)(4)	Services were preauthorized by carrier authorization# 021002-015. In accordance with 134.600 (h)(4) Recommended reimbursement \$85.00
TOTAL		\$128.00					The requestor is entitled to reimbursement of \$128.00

This Decision is hereby issued this 19<sup>th</sup> day of April 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 06-19-02 through 10-17-02 in this dispute.

This Order is hereby issued this 29<sup>th</sup> day of April 2004.

Roy Lewis, Supervisor  
Medical Dispute Resolution  
Medical Review Division

June 18, 2003

**Amended March 5, 2004**

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

MDR Tracking #: M5-03-1939-01

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 Doctor of Chiropractic. The reviewer is on the TWCC Approved Doctor List (ADL). 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

The patient in question was injured when he fell from a scaffold, causing pain in his low back, right hand and right shoulder. He was initially diagnosed with a sprain/strain type of injury but it was later discovered that he had a herniated disc at L4/5. Electrodiagnostic studies indicated a radiculopathy at L5 and S1 bilateral. The treating doctor on the case began a treatment protocol to initially include passive modalities and then later active treatment with chiropractic manipulations. A peer review was performed by \_\_\_ a physiatrist, who agreed that medical intervention was reasonable but felt that chiropractic was not. A designated doctor, \_\_\_ found this patient to not be at MMI as of October 16, 2002.

DISPUTED SERVICES

Under dispute is the medical necessity of muscle testing, neuromuscular stimulator, joint mobilization, myofascial release, manual traction, therapeutic exercises, range of motion measurements, office visits with manipulation and work conditioning.

DECISION

The reviewer agrees with the prior adverse determination for joint mobilization, code 97265.

The reviewer disagrees with the prior determination of all other care.

BASIS FOR THE DECISION

Clearly, the patient was responding to the care in this case. The conservative methods taken by the treating doctor had shown a positive effect and overall the patient continued to improve with the treatment. The report by the designated doctor certainly agreed with the approach to this case and encouraged further care. The treating doctor proceeded with a proven methodology on this case. The carrier's review doctor gave open-ended approval for medications without regard to the effects such medication would have for a patient with a diagnosed hypertension, but denied the active care that could get the patient back to work. The reviewer disagrees with that approach, as the most conservative method on this case was active care, and it was the most appropriate for this patient. The use of joint mobilization in billing is inappropriate, as it is a form of manipulation which has already been billed under the office visit.

\_\_\_ 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,